BENGAL SECRETARIAT LIBRARY

ABSTRACT OF THE

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR-GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE

OF MAKING

LAWS AND REGULATIONS.

1863.

WITH INDEX.

VOL. II.

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TO THE

ABSTRACT OF PROCEEDINGS

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Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Vic. C.* 67.

THE Council met at Government House, on Wednesday, the 7th January 1863.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *Presiding*.
Major-General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.

CIVIL PROCEDURE (BRITISH BURMAH.)

The Hon'ble MR. HARINGTON presented the Report of the Select Committee on the Bill to define the jurisdiction, and to regulate the Procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

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STRAITS SETTLEMENT POLICE BILL.

Also the Report of the Select Committee on the Bill to amend the law for regulating the Police of the several stations of the Settlement of Prince of Wales' Island, Singapore and Malacca.

TREATY WITH THE KING OF BURMAH.

The Hon'ble Mr. Maine moved for leave to introduce a Bill to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah. He said that the Council were aware that a Treaty had been negotiated with the King of Burmah after considerable effort, and the exhibition of considerable diplomatic skill, by Colonel Phayre. The Treaty promised great advantages, not only in the improvement of the commercial relations between the British and Burmese territories, but also in affording facilities of communication through Burmah with the Chinese Provinces. The principle on which the Treaty was [illegible]d was that of equivalent concession on each side. Some of the provisions would require legislative action, and the Bill was intended to give effect to them. The first of these was Article 4, which was as follows :— "When Goods are imported into Rangoon from any British or Foreign "Territory, and declared to be for export by the Irrawaddy river to the Burmese "Territory, the English Ruler shall, provided bulk is not broken, and he believes "the manifest to be true, charge one per cent. on their value, and if he so de-"sires shall allow them to be conveyed under the charge of an Officer until "arrival at Maloon and Menhla. The Tariff value of goods shall be forwarded "yearly to the Burmese Ruler. If such goods are declared for export to other "Territories, and not for sale in the Burmese Territories, the Burmese Ruler "shall, if he believes the manifest to be true, not cause bulk to be broken, and "such goods shall be free of duty." The Bill would recite this Article and enact its provisions in more full and somewhat more technical language. The other was Article 8. "Should the British Ruler within one year after the "conclusion of this Treaty abolish the duties now taken at Thayet Myo and "Tounghoo, the Burmese Ruler, with a regard to the benefit of the people "of his country will, if so inclined, after one, two, three, or four years abolish "the duties now taken at Maloon and Tounghoo (in the Burmese Territory".) In this Article there was not the appearance of perfect reciprocity. But the ideas of the King of Burmah as to the advantages of the remission of taxes were probably not the same as ours. Colonel Phayre, however, considered that the most effectual method of inducing the Burmese Ruler to remit his frontier duties was to exhibit on our part a readiness to remit ours. And the Bill, therefore, would authorize the Governor-General to remit the duties now levied at Thayet Myo and Tounghoo.

The Motion was put and agreed to.

ADMINISTRATION OF CIVIL JUSTICE (DARJEELING) BILL.

The Hon'ble Mr. Maine moved for leave to introduce a Bill to improve the administration of Civil Justice in the Settlement of Darjeeling. He said that this

Bill was introduced at the instance of the Bengal Government, who represented to the Governor-General in Council, that no appeal was allowed from the decisions of the Superintendent of Darjeeling, and that it was desirable to place the Judicial Administration of that Settlement under the Sudder Court. In considering the question the Government of India sought to determine the best mode of giving effect to the main object of the Bengal Government, without adding unnecessarily to the business of the highest Court of Appeal. It was the opinion of that Government, that the jurisdiction of the Sudder Court, on its Civil side, should be confined as much as possible to the settlement of disputed points of law and practice, or usage having the force of law ; and that, as a rule, its appellate jurisdiction should be exercised in respect of questions of fact, only in cases in which the amount, or value of property, in dispute was comparatively large. The Government of India also suggested, at the same time, that the administration of Civil Justice in Darjeeling might be placed on a satisfactory footing by vesting the Superintendent with a final jurisdiction on points of both law and fact in all cases of the nature of those described in Section III of Act XLII of 1860 (the Small Cause Court Act), with power to grant a new trial subject to the provisions contained in Section XIII of that Act, and of stating a case to the Sudder Cour under Sections XIV to XIX. Also by allowing, in all other suits not exceeding Rupees 5,000 in amount or value, a regular appeal from the decision of the Superintendent to the Judge of Dinagepore, who, on the Criminal side of his Court, tries commitments of the Superintendent, and hears appeals from his orders as Magistrate ; and, lastly, by allowing, in the regular appeals so decided by the Judge, a special appeal from his decisions to the Sudder Court at Calcutta, under the rules for the admission and decision of special appeals contained in the Code of Civil Procedure. In suits exceeding Rupees 5,000 in amount or value (it was observed by the Government of India), the rule obtaining in Regulation districts might be followed, which would allow a regular appeal from the decisions of the Superintendent to the Calcutta Sudder Court. It was intimated at the same time that, in the opinion of His Excellency the Governor General, the Code of Civil Procedure, with necessary modifications might, simultaneously with the introduction of the me sures above-mentioned, be extended to Darjeeling. The views above stated met with the concurrence of the Secretary of State for India, who stated, however, that legislation to extend the jurisdiction of the High Court, which would oubtless have been established meanwhile, should be undertaken by the Council of the Governor-General. A draft Bill had previously been prepared by the Bengal Government in conformity with the views of the Government of India, and it is proposed to adopt the same with some few modifications. It was intended that the Code of Civil Procedure shall be extended to Darjeeling so as to come into operation when this Bill becomes law.

The Motion was put and agreed to.

MUNICIPAL ASSESSMENT (STRAITS SETTLEMENT) BILL.

The Hon'ble MR. MAINE introduced the Bill to authorize the extension of the term of office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore and Malacca, and moved that it be referred to a Select Committee, with instructions to report in three weeks.

The Motion was put and agreed to.

EMIGRATION TO SAINT CROIX.

The Hon'ble MR. MAINE introduced the Bill relating to Emigration to the Danish Colony of St. Croix, and moved that it be referred to a Select Committee with instructions to report in three weeks.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to authorize the extension of the term of office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore and Malacca: The Hon'ble Messrs. Harington, Erskine and Roberts.

On the Bill relating to Emigration to the Danish Colony of St. Croix: The Hon'ble Messrs. Erskine, Fitzwilliam and Ellis.

The Council adjourned.

M. WYLIE,
Deputy Secy. to the Govt. of India,
Home Department.

CALCUTTA,
The 7th January 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Vic. C.* 67.

THE Council met at Government House, on Wednesday, the 14th January 1863.

PRESENT :

His Excellency the Viceroy and Governor-General of India, *Presiding*.
His Honor the Lieutenant-Governor of Bengal.
Major-General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.

TREATY WITH THE KING OF BURMAH.

The Hon'ble MR. MAINE introduced the Bill to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah, and moved that it be referred to a Select Committee with instructions to report in two weeks. He said that it was extremely desirable that this Bill, to give effect to some of the provisions of the Burmese Treaty, should be passed without delay, and, in the first instance, he had intended to apply to His Excellency to suspend the Rules of Business in order that it might be passed at once. But on consideration it appeared to be better, in reference to the great importance of the commercial interests at stake, to refer it to a Select Committee, on which he hoped that the Members of the Council who were connected with the Commercial Community would consent to serve. He proposed that the Committee should be instructed to report in two weeks, and when the Report was presented he would then request permission, under a suspension of the Rules, to move that the Bill be passed.

His Excellency the VICEROY said that, before putting the question to the vote, he must observe that great credit was due to Colonel Phayre for the manner in which he had managed the Treaty. It was a well known fact that the Bur-

mese Government had always manifested a great disinclination to enter into relations, either political or commercial, with the Government of India, and it was his impression that the disinclination had been removed by the tact and good judgment displayed by Colonel Phayre without the use of menace or the application of any undue pressure. The present engagement was hardly sufficiently comprehensive to be called a commercial treaty, but it was without doubt a step towards the development of trade by opening up an intercourse, not only between British Burmah and Burmah Proper, but by opening up a similar intercourse between British Burmah, and the States on the South-West Frontier of China. The importance of opening up some direct communication with these Provinces of China had been much insisted on of late. Various routes had been spoken of; among others, it had been suggested that a road might be opened up through British Burmah and the Shan States to a Town named Esmok in the Chinese Province of Yunan. He had, however, looked much into these matters, and his impression at that moment was, that the most practicable route would be up the Irrawaddy to Bamoo, and thence across the Yunan frontier. It was true that they were not aware of the nature of the country to be traversed between Bamoo and the frontier of Yunan, but it was satisfactory to know that the distance was not great, probably not more than 120 or 130 miles, and that the route was one constantly frequented in time of peace by Chinese Traders, and he thought that one of the most flattering prospects connected with the Treaty was, as far as he could gather from conversation with Colonel Phayre, the extreme interest evinced by these men in the success of his negotiations. He need hardly say that if this enterprising class of persons found it to be their interest to resort to British Burmah or to Assam, either as Traders or as Settlers, it would be highly conducive to the interests of those Provinces. The Bill now about to be submitted to a Select Committee would enable the Executive Government to make certain concessions which would, he hoped, induce the Burmese Government to follow the example thus set them, and enter upon a more liberal policy. With reference to these concessions, he would merely remark that, with the exception of a certain sacrifice of Revenue, which Colonel Phayre had recommended the Government of India to make on other and independent grounds, they would involve no loss, and that even in the absence of more perfect reciprocity, they were likely to conduce to a mutually profitable trade; and besides, it was intended to reserve with the Executive, the power of re-imposing the duties alluded to, should the expected reciprocity not be granted. He (His Excellency) would not certainly, guarantee that all the advantages he had just mentioned would follow on the treaty. He had had too much experience of the difficulties of bringing into harmony Oriental Governments and European Traders to speak positively on such a subject, but he had every confidence that if carried out properly, the engagement now made would result in the developement of a vast amount of wealth. He hoped, too, that, by conciliatory conduct and firmness, the Agents of Government in Burmah would be able to remove the difficulties which were always apt to arise in carrying out engagements of this nature with such States, and would repeat his opinion that great advantages would

accrue not only to British interests, but to the interests of those States themselves.

The Motion was put and agreed to.

ADMINISTRATION OF CIVIL JUSTICE (DARJEELING) BILL.

The Hon'ble MR. MAINE introduced the Bill to improve the Administration of Civil Justice in the Settlement of Darjeeling, and moved that it be referred to a Select Committee with instructions to report in three weeks.

The Motion was put and agreed to.

CIVIL PROCEDURE (BRITISH BURMAH).

The Hon'ble Mr. HARINGTON moved that the Report of the Select Committee on the Bill to define the jurisdiction, and to regulate the Procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

APPEALS TO THE PRIVY COUNCIL (NON-REGULATION PROVINCES).

The Hon'ble MR. HARINGTON moved that the Report of the Select Committee on the Bill to regulate the admission of Appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the general Regulations, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

STRAITS SETTLEMENT POLICE BILL.

The Hon'ble MR. HARINGTON moved that the Report of the Select Committee on the Bill to amend the law for regulating the Police of the several Stations of

the Settlement of Prince of Wales' Island, Singapore and Malacca, be taken into consideration.

The Motion was put and agreed to

The Hon'ble Mr. Harington also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah : The Hon'ble Mr. Harington, the Hon'ble Sir Charles Trevelyan, the Hon'ble Messrs. Erskine, Fitzwilliam and Cowie.

On the Bill to improve the administration of Civil Justice in the Settlement of Darjeeling. The Hon'ble Messrs. Harington, Ellis, and Roberts.

The Council adjourned.

M. WYLIE,
Depy. Secy. to the Govt. of India,
Home Department.

Calcutta,
The 14*th January* 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic. C. 67.

THE Council met at Government House, on Wednesday, the 21st January 1863.

PRESENT :

His Excellency the Viceroy and Governor-General of India, *Presiding*.
Major-General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.

ARTICLES OF WAR (NATIVE OFFICERS AND SOLDIERS) AMENDMENT BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army).

CONSOLIDATED CUSTOMS BILL.

The Hon'ble MR. ERSKINE presented the Report of the Select Committee on the Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

MAHOBA AND JEITPORE BILL.

The Hon'ble MR. HARINGTON moved for leave to introduce a Bill to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations. He said that the Pergunnahs of Mahoba and Jeitpore, the former of which was ceded to the late East India Company in the year 1817, and the latter of which lapsed to the British Government in the year 1849, have hitherto been administered on what is called the Non-Regulation system. Both Pergunnahs are now attached to the District of Humeerpore, which is subject to the general Regulations. That District has lately been transferred from the Jhansi Division, which is Non-Regulation, to the Allahabad Division, throughout which the general Regulations are in force,

and it was thought desirable that the two Pergunnahs in question should also be brought under the operation of the general Regulations and Acts, in Civil, Criminal, and Revenue matters, in order that they may be administered according to the system which is followed generally in the District and Division in which they are now included. This was the object of the present Bill.

The Motion was put and agreed to.

DIVORCE COURT BILL.

The Hon'ble Mr. Maine introduced the Bill for conferring upon the High Courts of Judicature in India, the jurisdiction and powers vested in the Court for Divorce and Matrimonial Causes in England, and moved that it be referred to a Select Committee. He said that, in introducing this Bill, he ventured to think that he anticipated the wishes of the Council by offering no arguments in support of the principle upon which it was founded. Whatever were the difficulty of the questions involved in the establishment of a tribunal having power to decree a divorce *a vinculo matrimonii*, (and he would be the first to admit that the difficulty of those questions was only equalled by the difficulty of discussing them satisfactorily in a deliberate assembly), he assumed that the Council would be of opinion that, so far as they related to principle, they had been solved in England for good or for evil. He imagined that those who had the strongest doubts of the policy of this measure, whether on grounds of public morality, or expediency, would still feel that the privilege of suing for a dissolution of marriage should not depend on an accident of locality, and that nobody would wish to perpetuate the exceptional disabilities under which the Queen's subjects in India were placed in respect of matrimonial law. There were, it should be stated, some reasons why the Council should approach the subject with less misgiving than they would probably have felt if they had been asked to legislate within a shorter period after the creation of the English Divorce Court. They came to it with the advantage of English experience. It would be vain to deny that some of the earlier effects of the establishment of the new tribunal were such as to distress, and perhaps to alarm, the public feeling of England. The number of applications for relief on the files of the Court seemed at first enormous; the scandal occasioned by the publication of its proceedings was far beyond all previous anticipations. These evils, however, at least in their excess, proved to be only temporary. It was shortly proved that the multitude of cases submitted to the Divorce Court arose from the accumulations of past years, and that the earlier petitioners were almost invariably persons whom the costliness and cumbrousness of the old procedure in Divorce had discouraged and debarred from relief. It was only quite recently that, what might be called the normal statistics of the English tribunal, had been disclosed, and there was much reason to believe that the annual growth of cases of this description would not be extraordinary, and that, though greater than could be wished, it was not greater than might be

expected. The other evil, the scandal attendant on publicity had been it was only just to say, very greatly abated by the good taste and good feeling of English Newspapers, which, co-operating with general sentiment, had reduced the reports of these cases within the narrowest limits compatible with publication. It was probably well known to the Council that the public scandal it occasioned was, for a long time, considered to be the most unfortunate incident of the Court, and an amendment to one of the supplemental Bills, providing that it should sit with closed doors, was, if he remembered rightly, lost by a narrow majority in the House of Commons. It might be asked why, with English experience to guide them, they had not thought of engrafting some such provision on this Bill. He was, however, one of those who thought that there was always the strongest presumption in favor of that perfect publicity, which was the oldest characteristic of the administration of English justice, and in this case experience had, to a great extent, borne out the antecedent presumption. For the publicity given to those cases, though it no doubt had its questionable aspect, had been the means of protecting society in England against one of the dangers with which it was menaced by the change in the law. It had rendered connivance or collusion between the petitioner and respondent in a Divorce suit, if not impossible, at all events, excessively difficult. However carefully and dexterously the plot might have been laid, it rarely happened that some one was not cognizant of a circumstance which showed the understanding between the conspirators, and the chances were that the attention of the person so cognizant was attracted to the report of the proceedings. It soon became known in England that information of the kind was easily procurable, and to take advantage of this information, one of the last and most valuable of the Divorce Acts was framed. By this Act it was provided that the original decree of the Matrimonial Court was to be only provisional ; in technical phrase, a decree *nisi*, and before it was made absolute, the Queen's Advocate and the Queen's Proctor were permitted to intervene in the proceedings, showing cause why it ought not to be passed. The ground of their intervention was to be connivance, or collusion, and, for the information which caused them to move, they were indebted to the publication of the proceedings on the first hearing. The Government had incorporated this Act with this Bill, substituting only the Advocate General, and the Solicitor to Government, for the Queen's Advocate, and Queen's Proctor. The Bill, he might now mention, followed very closely the English Acts, consolidating into one measure the body of English statutory Matrimonial law. In one point only it was proposed to depart from the tenor of the English Acts. In conformity with the practice of the High Courts when exercising original Jurisdiction, and with the approval of the great majority of the Judges of those Courts,—of all the Judges indeed, with one exception—they proposed to omit the provision of the English Acts for the trial of questions of fact by Jury at the option of the parties to a Divorce suit. There did not seem to be sufficient reason for placing Matrimonial Suits on a different footing from other Civil proceedings in India. He would not have adverted to the point if one of the Judges of the High Court of Bombay,—the only Judge, he might remark, who was opposed to the Bill on

principle—had not stated that he saw no reason why the English system of trial by Jury in Divorce cases should not be adopted in India. He (Mr. Maine) must observe, however, that in adopting the system of inquiry practised by the Indian Supreme Courts, they certainly, if he might so speak, anticipated the results towards which English experience in this matter seemed to be pointing. It was true that the English Divorce Acts conferred on either of the parties the power of demanding a Jury if they thought proper, but the reason of this probably was, that the English Judge of the Divorce Court had no power of assessing damages. The proceedings before the Divorce Court took the place, under the recent Statutes, not only of the investigation which used to take place before the House of Lords, and of the inquiry before the Ecclesiastical Court, but also of the action for criminal conversation in which damages were recoverable. Still, though the Judge of the Divorce Court in England had no power of assessing damages without a Jury, the fact was, that the demands for Juries on the part of the litigants were steadily diminishing, and the vast majority of cases were probably now tried by the Judge solely. Nor was it an immaterial consideration that the duty of serving on Juries in the Divorce Court was regarded with the utmost repugnance by the gentlemen liable to it, and no small difficulty was practically experienced in completing the requisite number. He was disposed also to attach great weight to that stricter decorum which it was always possible to observe when these cases were tried before a Judge, than when they were investigated, necessarily with much greater fullness, before a popular tribunal. These reasons would, he trusted, be thought by the Council to justify the Government in taking the course recommended by the majority of the Judges, rather than that suggested by the Chief Justice of Bombay. There were many other points on which opinions were expressed by the learned Judges of the various High Courts, but these were points of detail which would more fitly be considered by the Select Committee. The only remaining observation he had to offer was, that the scheme of the Bill was this; it was accommodated to the existing Matrimonial jurisdiction. Whatever were the limits of the Matrimonial jurisdiction which the High Courts had inherited from the Supreme Courts, to those limits would extend the new power of decreeing dissolution of Marriage. The Bill would necessarily be delayed on account of the legal difficulties which he mentioned on a former occasion.

The Motion was put and agreed to.

HUMEERPORE BILL.

The Hon'ble Mr. Harington moved that the Select Committee on the Bill to remove the District of Humeerpore, in the North-Western Provinces, from the operation of the General Regulations be discharged, and that the Bill be withdrawn. He said that the District of Humeerpore, in the Province of Bundlekund, formed, for many years, part of the Division of Allahabad; but in 1858, owing to events arising out of the Mutiny, it was severed from that Divi-

sion, and transferred to the Division of Jhansi, which is a Non-Regulation Province. It was then considered that it would be inconvenient that that District should be administered on a system different from that which prevailed in the rest of the Province, and a Bill was accordingly introduced to remove the District of Humeerpore from the operation of the General Regulations. It was then supposed that the annexation of Humeerpore to the Jhansi Division would be permanent. But circumstances had since arisen which had rendered it expedient to transfer the District again to the Allahabad Division, which, including Humeerpore, as originally formed, was administered under the Regulations. No necessity therefore any longer existed for special legislation in reference to the subject. The Committee might consequently be discharged, and the Bill withdrawn.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill for conferring upon the High Courts of Judicature in India the jurisdiction and powers vested in the Court for Divorce and Matrimonial Causes in England: His Honor the Lieutenant-Governor of Bengal, the Hon'ble Mr. Harington, the Hon'ble Sir Charles Trevelyan, and the Hon'ble Mr. Erskine.

The Council adjourned.

M. WYLIE,
Depy. Secy. to the Govt. of India,
Home Department.

CALCUTTA,
The 21st January 1863.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., cap. 67.

The Council met at Government House, on Wednesday, the 28th January, 1863.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding.*
Major-General the Hon'ble Sir R. Napier, K.C.B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K.C.B.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C.B.
The Hon'ble A. A. Roberts, C.B.

TREATY WITH THE KING OF BURMAH.

The Hon'ble MR. MAINE presented the report of the Select Committee on the Bill to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burmah.

EMIGRATION TO SAINT CROIX.

Also the Report of the Select Committee on the Bill relating to Emigration to the Danish Colony of St. Croix.

MAHOBA AND JEITPORE BILL.

The Hon'ble MR. HARINGTON introduced the Bill to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations, and moved that it be referred to a Select Committee, with instructions to report in two weeks.

The Motion was put and agreed to.

ARTICLES OF WAR (NATIVE OFFICERS AND SOLDIERS) AMENDMENT BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army) be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Proviso recommended by the Select Committee to be added to the second paragraph of Clause 2 of Article 82 be omitted, and that the following Proviso be substituted in lieu thereof: "Provided that, if reference can be made to any other superior Officer holding a Command not less than that of a Regiment, such reference shall be made, and such Officer thereupon shall have authority summarily to try, and, in case of conviction, to sentence the offender, and to carry out such sentence as if the offender had been under his Command." He explained that the object of the Clause was to give to Officers in command of Detachments summary powers, but it was obvious that those powers should not be exercised if reference could be made, without detriment to the Service, to a superior Officer. The Select Committee had amended the Clause with the view of giving the requisite powers subject to that restriction, but as it had since appeared to the Members of that Committee, that the Proviso did not impose the necessity of a reference if it could be conveniently made, he would propose the amendment of which he had given notice, and he might state that it had the concurrence of the Government of India in the Military Department.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Bill be passed with the amendments recommended by the Select Committee, subject to the foregoing amendment.

The Motion was put and agreed to.

CONSOLIDATED CUSTOMS BILL.

The Hon'ble MR. ERSKINE moved that the Report of the Select Committee on the Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India be taken into consideration. He said that, in making this motion, he need only remind the Council that, after the Bill had been revised by the Select Committee to which it was first referred, and after it had been republished in its revised form for general information, many suggestions for its further amendment had been received from the several local Governments and Chambers of Commerce. That had

rendered it expedient that the Bill, together with the communications in which those suggestions were made, should be referred back to a Select Committee, the Report of which was now before the Council. It would be found, he believed, that most of the suggestions intermediately offered—most of those which seemed to be of any considerable moment—had been incorporated into the Bill as now reported. It could hardly be expected that every suggestion emanating from a local source, and adapted in some cases to purely local circumstances, and even to local peculiarities, should be suitable for insertion in its entirety in a Bill like this, which was to be of general application. But the number of instances in which the Select Committee had felt unable to adopt a recommendation of any moment was certainly small. And in some of those instances, when the Committee did not feel at liberty to go in a particular direction as far as was desired, they had inserted provisions which would enable the Government to go, in that direction, as far as seemed to be consistent with the character and scope of the Bill, as a general Bill, and with the principles on which it was founded. With these explanatory remarks he begged to move that the Report of the Select Committee be taken into consideration.

The Hon'ble Mr. Cowie said, that he thought this might be deemed a fitting opportunity for recording his opinion of the great zeal, ability, and patience with which the Hon'ble Mr. Erskine had conducted this important Bill to a successful issue. It had been under his especial charge for more than twelve months, and during that time he had been engaged in the proverbially difficult task of pleasing all parties, and he (Mr. Cowie) thought, with very considerable success. He considered that the Government and the public were alike indebted to the Hon'ble Gentleman for the mode in which he had preserved the rights of the one without trenching on the convenience of the other.

His Excellency the President said that Mr. Cowie had anticipated the observations which he had intended to make. He entirely concurred with Mr. Cowie in his sense of the obligation under which the Council lay to Mr. Erskine for the zeal and ability which he had manifested in his charge of this Bill. By far the most laborious part of the work of the Council in legislation was performed, not in that room, but in the Select Committees, and he (His Excellency) thought that the public should be made aware of the fact. In this instance, a great deal of labour had been devoted to the consideration of the numerous suggestions which had been made for amendments in the Bill, and it was through the admirable judgment and conscientious perseverance of Mr. Erskine and the other Gentlemen who formed the Select Committee that the Bill had been brought to its present state. He could only express his hope

that their zeal would be rewarded by seeing the perfect working of the measure which they had brought to so satisfactory a conclusion.

The Hon'ble Sir C. TREVELYAN said, it might have been expected that, as the Member of the Governor General's Council specially charged with the Financial Business, he should have given his particular attention to the details of this Bill; but finding that it had *practically* reached its last stage, and that great pains had been bestowed upon it by the Select Committee, and having been assured by Mr. Erskine that it was strictly a *consolidation* Bill with the exception of certain limited alterations which he was so good as to explain, and in which he (Sir C. Trevelyan) entirely concurred, he considered that his time would be better employed in attending to other matters which required immediate attention. The consolidation of the various laws relating to the Customs was a work of great public value, and in accepting it on trust in the way he had described, he had given the highest proof of his confidence in the faithful and able manner in which it had been effected.

The Hon'ble MR. ERSKINE said, that as his friend Mr. Cowie and His Excellency the Viceroy had, in a very kind manner, ascribed to him (Mr. Erskine) more credit in connection with this measure than he could fairly claim, he might perhaps be allowed to make one or two observations which he had intended to reserve until he moved that the Bill should be passed. It was impossible that a Bill of this kind, a first attempt to consolidate and expand into something like a Code, rules of practice which had hitherto been different, and in some respects, discordant in different parts of India, should be anything but a tentative, and indeed a very imperfect, measure. He was sure however that, imperfect as it must be, many defects which would otherwise have adhered to the Bill had been removed, owing to the aid which had been so kindly given by some of those who were most competent to give it. He had already alluded to the valuable suggestions which had been received from the Local Governments and Chambers of Commerce. In like manner two of the Gentlemen, who, with Mr. Spooner, composed the Customs Committee, by whom the original draft of this Bill had been prepared two years ago, were still in Calcutta—Mr. Eden, and Mr. Bullen, who was now again, as he had then been, the President of the Chamber of Commerce. They had been most ready on all occasions to furnish information and advice—sometimes he feared at considerable personal inconvenience. And although the Bill was a very long, and not a very inviting one, it had been carefully revised and rediscussed by more than one Select Committee, the presence in which of their friends, Mr. Fitzwilliam and Mr. Cowie, had brought to bear on the consideration of some of the questions most important to the mercantile community, a degree of practical knowledge and practical interest, which otherwise it might

have been difficult to secure. That being the case; and as it seemed that, whatever might be the imperfections of the Bill, all those who had expressed an opinion in regard to it concurred in viewing it as a decided improvement upon any that had previously been in force; he hoped they might believe that it would be really acceptable, and really advantageous, to those whose interests in such matters it was desirable to consult.

The Motion was put and agreed to.

The Hon'ble MR. ERSKINE then applied to His Excellency the President, under Rule 26 of the Rules for the Conduct of Business, for permission to move a verbal amendment of which he had not given notice; and then moved that, in Section CLXVIII, the following words be inserted at the end of line 6, after the word "lawful"—"on the conditions and under the rules prescribed from "time to time under Section CLXIII of this Act."

The Motion was put and agreed to.

The Hon'ble MR. ERSKINE then moved that the Bill as amended be passed.

The Motion was put and agreed to.

TREATY WITH THE KING OF BURMAH.

The Hon'ble MR. MAINE applied to His Excellency the President to suspend the Rules for the Conduct of Business; and, on the suspension of the Rules, moved that the Report of the Select Committee on the Bill to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burmah, be taken into consideration. He read the Report of the Select Committee, and said that as it only recommended a slight verbal amendment, he concluded that the Council would not object to take the Report into consideration at once.

The Motion was put and agreed to.

The Hon'ble MR. MAINE then moved that the Bill be passed with the amendment recommended by the Select Committee.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to bring the Pergunnahs of Mahoba and Jeitpore in the District of Humeerpore under the operation of the General Regulations: The Hon'ble Messrs. Harington and Roberts.

The Council adjourned.

M. WYLIE,

Depy. Secy. to the Govt. of India,

Home Department.

CALCUTTA;
The 28th January, 1863.

S. G. P. I.—No. 77 L. D.—3-6-11.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic. C. 67.

THE Council met at Government House, on Wednesday, the 4th February 1863

PRESENT :

His Excellency the Viceroy and Governor-General of India, *Presiding.*
Major-General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.

CONFINEMENT OF PRISONERS' BILL.

The Hon'ble MR. HARINGTON presented the Report of the Select Committee on the Bill for the amendment of the law relating to the confinement of Prisoners convicted of offences in Native States.

PEONS' BILL.

Also the Report of the Select Committee on the Bill to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process in the Courts of the North Western Provinces of the Presidency of Fort William in Bengal.

AMENDMENT OF CIVIL PROCEDURE BILL.

Also the Report of the Select Committee on the Bill to amend the Code of Civil Procedure.

ADMINISTRATION OF CIVIL JUSTICE (DARJEELING) BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill to improve the Administration of Civil Justice in the Settlement of Darjeeling.

EMIGRATION TO SAINT CROIX.

The Hon'ble Mr. Maine moved that the Report of the Select Committee on the Bill relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix be taken into consideration. He said that, in making this motion, it was desirable that he should read the last paragraph of the Report of the Select Committee, which was in the following terms :—"As we understand that "the consolidation and amendment of the Acts relating to Emigration are under "consideration of the Supreme Government, and likely very soon to be under-"taken, we refrain from suggesting, on the present occasion, any alteration of the "Law which would be applicable only to the small Colony to which this Bill "relates." When the Select Committee assembled, there was found to be considerable difference of opinion among the Members, both with respect to the principle of the Bill and the machinery by which its object was to be carried out. But he (Mr. Maine) had been in a position to inform the Committee that it was the intention of the Government, when the sittings of the Council were intermitted, to take into consideration the laws relating to Emigration with a view to their consolidation and amendment. As respected this particular Bill, the community of Saint Croix was but small, so that the drain upon the labour of India would be insignificant ; and, on the other hand, the Danes, as His Excellency, from his West Indian experience, was doubtless aware, bore such an excellent reputation for kindness to their servants, even in the days of slavery, as afforded strong ground for believing that emigrants would be treated with even exceptional humanity and consideration. He would, therefore, move that the Report be taken into consideration, and the Bill be passed without prejudice to any question that might arise hereafter on the subject of the amendment of the Emigration Laws.

The Hon'ble Mr. Cowie said, it was no doubt their bounden duty to pass this Bill, since it merely carried out a Convention already entered into at Home by Her Most Gracious Majesty. But he wished to suggest to the Executive Government the expediency of pointing out to Her Majesty's Ministers the apparent fallacy on which these Conventions were based, *viz.*, the notion that India was overpopulated, and that the remedy of emigration, which had brought such enormous advantages to England, Scotland and Ireland, must prove of equal service here. It was true that, in many towns, and, perhaps, in some districts, there was an excess of population but then these were balanced by other districts very sparsely populated, and it would be more expedient for Government to encourage Natives to migrate from one part of India to another, rather than to carry their labor to Foreign Colonies with which we have no commercial reciprocity. In making these remarks, he wished to guard himself against any imputation of narrow views in reference to free trade. He professed himself a free-trader in the item of labor, as in other things, and he desired to see every man at liberty to carry his labor to the best market, whether in his own country or out of it, but it was one thing to bring that liberty to the notice of Natives, and quite another to tempt them to

emigrate by various modes of encouragement, and even by a kind of licensed impressment. He hoped the subject might receive the impartial attention of His Lordship and the Executive Members of this Council.

The Hon'ble Mr. Fitzwilliam said that his Hon'ble friend, Mr. Cowie, had so fully expressed the opinion of the commercial community of Calcutta, and, he believed, of India, that he could add but little to his arguments, in all of which he agreed. He admitted the right of free emigration to every Native of India. But believing, as he did, that the supply of labor in this country was now inadequate to meet the demand, he thought that the Government should, when legislating for the protection of the emigrant, avoid doing anything that would encourage him in emigrating. The time was, in his opinion, not far distant when the question of immigration would probably occupy their attention much more than emigration.

The Hon'ble Mr. Ellis said, that it was not his intention to raise any objection to the Bill before the Council, because he conceived it had become necessary to pass that Bill, in consequence of the Treaty concluded by Her Majesty's Government with that of Denmark. The measure before the Council was merely an extension of Act XXXI of 1855, as modified by Act XLIX of 1860, which Act was passed for the protection of Natives emigrating from the British Territories in India to British Colonies:—and as it was the intention of Government shortly to make a revision and consolidation of the laws relating to emigration from India, he agreed with the other Members of the Select Committee in thinking it unnecessary to make any alteration in the Law as applicable to the Danish Colony of St Croix only. But although he was not disposed to oppose the Bill before the Council, he confessed that he very heartily concurred in the opinions expressed by his Hon'ble Colleagues, that the extension of emigration at the present time was a matter of very serious regret, and that such extension would prove very injurious to the interests of this country. Some persons in England, and Foreign Governments generally, labored under the erroneous impression that British India had a surplus population, which it could afford to send out of the country as emigrants either to our own Colonies or to Foreign Possessions. Those best acquainted with India would certainly not concur in this opinion. In reality the future progress of India, speaking not of particular portions of the country, but, of the Empire generally, ran a serious risk of being interrupted and delayed, by the want of a sufficient population. This deficiency of labor was likely to retard an object in which His Lordship's predecessor in the Government of this country, and the Engliish public generally, had shown so great an interest, the reclaiming of the vast tracts of jungle and waste land, and the application to the soil of English capital under the superintendence of English settlers. When they reflected upon the vast extent of Railways still remaining incomplete; the tramways, feeders, and roads required to bring the great lines of Railway into profitable operation; and the vast works of irrigation which were being undertaken with the object of fertilizing and enriching the country; when they knew that

all these great enterprizes were not looming in the distance, but were already in progress he (Mr. Ellis) confessed that he thought they should view any increase in the number of emigrants, and any measures which, like the present Bill, have a tendency to encourage emigration, as matters of regret, and as a serious evil. He was aware that it might be said that the inhabitants of India should be free to carry their labor to the best market which they could find, and that it would be unbecoming and illiberal in the British Government to throw obstacles in the way of emigration, either to our own or Foreign Colonies. It would also be objected, that the legislative measures passed in respect of emigration have not had for their object the encouragement of emigration from India, but that they have been framed so as to protect the Natives of this country from being entrapped and deluded, when making their engagements; to guard their interests when they had reached their destination; and to ensure their return to their native country when they had fulfilled their contracts. He was prepared to admit that at first sight there was great force in such observations; but although laws might be framed with care, and be thoroughly correct in principle, it behoved the Council, especially in regard to this country, to observe very carefully the practical effect of the Law when applied. The laws relating to emigration would, he did not doubt, be found very sufficient in countries where the people were more civilized and self-reliant than they were in India; but he did not believe that the law, in its present state, was sufficient to guard the Natives of the interior of the country from being deceived and enticed from their homes on false, or what was nearly as bad, on insufficient information. He believed that if we could follow the recruiters of emigrants into the interior of the country, and if we could watch their proceedings more closely than had hitherto been done, we should find them holding out the most exaggerated prospects to the most ignorant class of the population, and making promises as extravagant as those of the recruiting Serjeant to the bumpkins of a village in England, when a few fine men were wanted for service in India. The Natives in the interior completely misapprehend the position and powers of these recruiting agents. These agents displayed before their eyes a Purwannah, as they styled the document they receive from the Emigration Agent, and they were invested, in the eyes of the people, with a certain degree of official authority. They were listened to all the more readily in consequence of its being supposed that their objects had the support and approval of the Government. When once a gang of Coolies was collected, care was taken to gain over a few of the most intelligent among them. These were appointed as Sirdars over small companies of the Coolies, were favored by the recruiter, and combined with the recruiter to keep up the illusions which caused the Coolies to enlist. These Sirdars obtained, during the march to Calcutta, a very great influence over their respective gangs, and, by the time the Coolies reached their depôt at Calcutta, they were fully persuaded of the reality of the promises held out to them when they left their homes, and that these would be speedily realized. Acting under the direction of their leaders they, parrot-like, expressed their contentment when questioned by the Protector, and their entire willingness to fulfil

their engagements. He (Mr. Ellis) must beg to observe that he believed the work of the Protector, so far as lay in his power, was most conscientiously performed at Calcutta by the Officer appointed for that purpose; but he maintained that the bands of intending emigrants were deceived before reaching the depôt and the influence of their Sirdars dictated their answers to the Protector. Those who were best acquainted with Natives knew how easily men could be tutored, and how difficult it was to make them give any answers but those which have been taught them. Their health was carefully and skilfully guarded during the time they remained at the depôt. It had been found necessary on the ground, it was stated, of health, to give the intending emigrants, while awaiting their embarkation, a very superior diet to that to which the laborers in this country were accustomed, and spirits formed one of the sanatory precautions which it had been found necessary to employ. Further, athletic sports were encouraged by pecuniary rewards, so that the happy life which was promised to them at the time of their recruiting, commenced to be realized during their sojourn at the depôt, and it was only when they were fairly at Sea that they commenced to find how illusory the promises made had been. He (Mr. Ellis) did not think that he exaggerated when he said that the majority of Coolies who emigrated, (and this was especially the case with regard to Foreign emigration) were completely ignorant of that which they were undertaking. He did not wish to dwell upon the lamentable and excessive mortality which had recently occurred among the emigrants to the Island of Ré-union, and which had engaged, he believed, the attention of the Government of Bengal, and the Government of India, for he had no doubt that efficient remedies would be applied. This mortality, which was nearly double that which occurred among the emigrants to the Mauritius, amounted to 4½ per cent during the short time occupied in the voyage, and in the distribution of the Coolies. With reference to this particular branch of emigration from this country, he had carefully examined the reports regarding Cooly labor, inserted monthly in the Commercial Gazette published at St. Denis He gathered from those reports some important facts. It appeared that the mortality among the Coolies received from Calcutta was of the very serious character which he had already noticed, that this mortality was continuous during a great part of the year, and also that the Coolies received from Calcutta were physcially ill-suited for the labors assigned to them on the sugar-cane plantations and in the sugar factories. It was added, and he thought this a very significant remark, that the demand for labor in the Island was so great, that in spite of the large numbers already sent, the planters and manufacturers were eager to obtain these Coolies, although it was admitted that their physical condition was unsuited for these labors. When it was remembered that the Island of Re-union did not admit of much extension of cultivation, and that the climate, though favorable to Europeans, is considered fatal to Africans, and hostile to Asiatics, he very much feared, from the facts he had mentioned, that it had been found, as was the case with imported slave labor, in America, that it paid to employ at excessive labor an Indian Cooly, even for a limited period, and

that a large proportion of those employed succumbed to this labor. In Article X of the Convention made by Her Majesty with the Emperor of the French, provision had been made that the Emigrant should not be required to work more than six days in seven, nor more than nine hours and a half a day, and by Article XIX, that the British Consular Agent should be informed of the allotment of the emigrants, and of all deaths and births which might occur during the period of engagement. He (Mr. Ellis) should be glad to learn that these statistics had been furnished to the Government of India by the British Consular Agent during the last eighteen months, and that they indicated a better state of things than would appear from the report which he had quoted. He (Mr. Ellis) was led to believe that this state of things continued in Re-union; for he observed in a late issue of the Commercial Gazette above-quoted, dated 15th December 1862, the following remarks:—" The Alumghir has arrived with 400 Coolies on board. These will be allotted in a few days. The Coolies from Bengal are still out of favor because the truth is the numerous shipments of these men are not of the kind required. It is to be hoped that the present lot will prove better than those which preceded it. But whatever may be the composition (" materiel") of it, the want of labor is so great everywhere, that in all probability not one of these Indians will remain unplaced in a very few days after their distribution is allowed." He did not wish without further information to draw any positive conclusion from this recent account of the labor market in the Island of Re-union, but he feared the deficiency of labor indicated a continuance of mortality after the emigrants reached the estates. He thought it might however be safely affirmed, that the experience of the results of the emigration of Natives from India to Foreign Colonies was not of a nature to make any one interested in the welfare of India wish for the extension of such emigration, and rendered it very desirable that stringent provisions should be introduced into the laws relating to emigration, to guard the Natives of India from being enticed by false promises to a country and to labors which were unsuited to them; the more so, that every adult laborer was certain of remunerative work either in his own country, or in countries forming part of the British dominions in India, and under the protection of the British Government. His object in making these remarks had been to hasten the revision and consolidation of the laws relating to emigration. Whether it would be desirable to send a commission to enquire, before the evil extended, into the condition of Natives who had emigrated to Re-union must be left to the discretion of the Executive Government, but he thought this Council would fail in the performance of an important duty if a careful amendment of the law relating to emigration was delayed. He observed that an important step in this direction had been taken by the Council of His Honor the Lieutenant-Governor of Bengal in a " Bill for the regulation of the transport of Native laborers to the districts " of Assam, and Cachar and Sylhet." Sections X and XI of that Bill contained important provisions for keeping the recruiter of Coolies under the eye of the district Magistrate, whose signature must be obtained before the recruiting could commence. No laborer was to be allowed to leave his district until

he had been produced before the Magistrate, and until that Officer had carefully examined the intending emigrant as to the nature of his engagement, and if the Magistrate was not of opinion that the person examined comprehended his engagement, he was required to refuse to register his name, and without such registration no laborer could be forwarded to the Cooly depot. It was before the Cooly left his own district that protection was most required, and could be most efficaciously extended to him. He trusted that these useful provisions would be introduced into the consolidated law relating to emigration, and that the Magistrates would most carefully question the Natives who proposed to emigrate, so as to ascertain that they had not been kept in ignorance on such important points as the climate of the conntry to which they were about to proceed, and the nature of the labor required of them. He must ask the indulgence of the Council for the length of his remarks on this subject, but it was one of great and increasing importance, as affecting the welfare of very large numbers of the Natives of this country, and indirectly those important interests to which he had already alluded, and which would seriously suffer by any increase in emigration from British India. As it was, the emigration from the Port of Calcutta alone had reached very considerable proportions. The total number of emigrants from this Port from December 1860 to December 1862 was 37,598, of whom 8,957 went to the Colony of Re-union.

The Hon'ble Mr. ERSKINE said that, as one of those who had signed this Report, he wished, after the statements which had just been made, to offer a few remarks on one portion of this subject. Abstaining from any allusion to the economic aspect of the question, he could not but think that, in dealing with it as a legislative question, Mr. Cowie and Mr. Ellis had hardly given sufficient prominence to considerations connected with the actual state of the law. The Acts which had been passed from time to time, of late years, for the purpose of regulating emigration from British India, could not, he thought, be correctly described as Acts to encourage emigration. Mr. Cowie had declared himself to be a free-trader in respect to labor, as well as to other things; and he (Mr. Erskine) might therefore just remind him, that, since the passing of the Act of 1839, the general law had recognised it as a penal offence to contract with any Native of India for labor in a Colony beyond the Seas, or to aid any Native of India in emigrating for employment as a laborer. The laborer had indeed been left nominally at liberty to carry his labor to the place in which it would be most productive. But, practically, this liberty of choice could hardly be exercised, owing to the penalties enacted against all who aided emigrant laborers. And even under the special laws passed from time to time, to exempt certain Colonies from the prohibitory provisions of the Law of 1839, a Native emigrant could not be carried as a passenger unless he personally expressed his desire to go; nor unless he had been engaged on the part of the Government of the Country to which he was proceeding; nor unless he showed a passport signed and countersigned by the Emigration Officers; nor unless the vessel had been specially licensed

to carry emigrants ; nor until the rules relative to accommodation and treatment of emigrants, and provision of return passages to India, had been fulfilled ; nor to any place but one at which a Protector of Emigrants had been recognised. It was not easy to see how the Indian Legislature could go much further than this in restricting the freedom of action of emigrant laborers, and of Commanders of Vessels. Acts passed in this spirit could hardly, he thought, be described as Acts to encourage emigration. In the practical working of those Acts great evils might arise, and no doubt did arise, as Mr. Ellis had pointed out ; and the Council were obliged to him for bringing some of those evils so distinctly to notice. But still it was uncertain, and was a difficult question to decide how far and in what way the Legislature could advantageously interfere for the purpose of remedying those evils ? and how far they must be left to the vigilance of the executive administrations in India and elsewhere ? The question, as regarded practical abuses or evasions of the law, seemed to divide itself naturally into two parts; one relating to the proper protection of emigrants while still in British India; the other to their protection after they had left the limits of British India. In connection with the former, he was disposed to think with Mr. Ellis that some better arrangement should be made for ascertaining, before an emigrant left his own district, that he was fully informed of the meaning of the engagement into which he was entering, and of the risks he would have to run. Some provisions for this purpose, in the nature of those recently proposed in the Bengal Council, would probably be desirable. Other measures, too, of a similar kind might be practicable ; and he had no doubt that when the consolidated Bill announced by Mr. Maine was introduced, full justice would be done to every proposal for the better protection of intending emigrants. In like manner, with reference to the treatment and protection of those who had passed beyond the limits of British India, it must be remembered that an Act of 1856 empowered the Governor-General in Council to suspend any Act permitting emigration to any Colony, if there were reason to believe that proper measures had not been taken there for the protection or re-transmission of emigrant laborers. He (Mr. Erskine) was not sure that there was any other precautionary measure which the Indian Legislature could take in view to this last contingency. His object in making these observations was not to indicate dissent from the views expressed by his Colleagues on such questions as the supply of labor in India, and the value of that supply ; and he fully sympathised with those who desired to protect intending emigrants from being misled or deceived by designing agents. When proposals for affording better protection against such abuses should come before the Council, they would all be anxious to do full justice to them. In the meantime he could not but think that sufficient prominence had hardly been given on this occasion to the fact that the law as it stood might be described as generally restrictive, rather than as affording encouragement to emigration.

The Hon'ble SIR CHARLES TREVELYAN said that he fully admitted the correctness of the views of the previous speakers as to the population of India.

There was no doubt that, so far from being *over*-populated in the proper sense, India was *under*-populated. One-third, if not one-half, of the land, including a large proportion capable of high cultivation, remained waste. There were great works in progress, but much difficulty was experienced in executing them owing to the deficiency of labor. In the Central Provinces, there were two lines of Railway—that from Bombay to Jubbulpore—and that from Mirzapore to Jubbulpore—having for their object a continuous line of communication across India. There was also a great navigation work on the Godavery; and even now there was a serious deficiency of labor on those Railway lines, and still more on the Godavery works, the progress of which was obstructed by that cause, and it was to be feared that the line from Mirzapore would not be pushed on with the activity which the great interests depending upon its completion imperatively required, because sufficient labor would not be forthcoming. On both sides of the Madras Presidency, there were ranges of mountains intersected by passes, which it was the object of the Government to open. But so great had been the difficulty in procuring labor that they had been compelled to organize bodies of laborers by a kind of military arrangement, and to induce them to remain by entering into a long engagement with them. Another instance occurred in Scindo, where the Government had actively promoted the formation of canals; but it was found that the population was so scanty, that, by the withdrawal of labor for those works, the ordinary cultivation was seriously interfered with: other instances of a similar kind might be mentioned. There could be no doubt that every laborer removed from India was a loss to it. To support the highly stimulated consumption of the great bodies of laborers, employed on the great works in progress in various parts of India, and to meet the constantly increasing demand for exports of different kinds, immense supplies of agricultural produce were required; and when labor was withdrawn from the soil, the value of the produce became artificially enhanced. There was already a dearth of labor, and every man who emigrated aggravated that dearth. It was also true, that the people—the lower orders especially—stood in need of protection. They were ignorant of Foreign Countries; were singularly docile, and were accustomed to yield to every semblance of authority. The very words "Purwannah," and "Sirdar" had an influence over them. But this was not the whole case. There were great evils and great dangers connected with emigration; but there was great good also. The emigrant went where he earned higher wages, and could acquire that which was to him a little fortune. He saw life in new aspects, and drank in new ideas, so that he returned a changed man. The emigrants who returned from the Mauritius, to which emigration had been going on for many years, came back an improved people; well clothed, and well fed; with an aspect of contented independence, and with property which they ordinarily invested in agriculture, and it was partly to these investments that the great extension of agricultural industry in the Madras Presidency was attributable. An annual efflux of the Madras laboring population had also been going on for many years to the Coffee estates in Ceylon. They cross the Straits of Manaar for the Coffee Season, as the Irish

laborers cross St. George's Channel for the hay-making and harvest in England and Scotland, and return home at the end of the season with the savings of the year. He (Sir Charles Trevelyan) might mention another instance of the advantage arising from emigration. In his official tour in Tanjore be held free conferences with all classes, and especially with the landholders, the Meerassidars, who were a very important class in that part of the country. After other topics had been discussed, they asked that the people, whom they had formerly held in a kind of serfdom, should be prohibited from emigrating. He (Sir Charles Trevelyan) told them, that every subject of Queen Victoria was free to go where he chose, and that the remedy was in their own hands, as they had only to give higher wages to induce their people to remain at home. If emigration had been stopped, this servile class would have remained in their old condition, but emigration had emancipated them from those who had exercised a qualified ownership over them. It had given them a new sense of freedom, and had elevated their condition, and there could be no doubt that, in various ways, the freedom which the people now possessed to go where they liked, was a great benefit to them.

The practical conclusion to which he (Sir Charles Trevelyan) came was that, while there was some evil, there was more good in emigration, and that it was the duty of Government to allow perfect freedom, but at the same time to take care that it was not emigration through compulsion, nor through deception ; and also to do all in its power to protect Indian emigrants in the Foreign lands in which they were temporarily sojourning.

The Hon'ble Rajah Dinkar Rao said that he was aware that it depended on the will of each emigrant whether he would elect to leave the country or not ; still that there was so much difficulty in arranging for the proper transport of emigrants, and for their treatment and protection after arrival at their destinations, especially in places under Foreign Governments, that the subject seemed to him to require careful considertion.

The Honorable Mr. Harington said,—Upon the general question as to whether, regard being had to the interests of the country at large, it was desirable or proper to encourage emigration from India either to British or to Foreign Colonies, he did not understand that there was any great difference of opinion. Most persons who had any knowledge of the interior of the couutry would confirm what had fallen from Honorable Members as to the fact that India had not an excessive population, or a population in excess of the wants of the country, or beyond its means of support. The motives, therefore, which led to the encouragement of emigration in other countries, did not exist here. He believed he was not wrong in saying that, at the present time, India could find full employment for every one of its millions of inhabitants. But while this was admitted to be the case, and while they all felt that most exaggerated notions prevailed at home and elsewhere as to the capability of India to furnish labor for

other parts of the world, not only without injury, but with positive advantage, to itself, he was glad to find that no one supposed that the restrictive laws which were passed in 1837, and which prohibited contracts from being entered into with the Natives of India for labor to be performed in any British or Foreign Colony, an exception being made in favor of menial servants and seamen, could or should be maintained, and that the privilege which was enjoyed by the laboring classes at home, and, he believed, in most other civilized countries, of taking their labor to any market where it was likely to prove most profitable to themselves and their families, ought to be denied by legislative enactment to the laboring classes in India, or that they should be debarred by law from seeking their fortunes in other countries whenever they felt inclined to do so. The impossibility of maintaining, in their integrity, the restrictive laws to which he had referred, became apparent very soon after the passing of those laws, and, in the period which had since intervened, it had been found expedient to relax them in favor of different Colonies. He was not aware that any inconvenience or injury to the country at large had been produced by this relaxation of the law, while, as regarded the labouring classes of India, who, availing themselves of the relaxation of the law, had sought employment out of India, he believed that the result had been exceedingly beneficial. No doubt some cases of individual hardship had occurred, which were to be regretted. This must be the case under any system of emigration, however well managed. A modification of the Act of 1839 having been forced upon the Government, it obviously became the duty of the Government, at the time that it relaxed that law, to pass other laws, which should protect the labouring classes in India from misrepresentation, or from being deceived by interested parties, and should secure for those classes proper accommodation and care on the voyage from India; good treatment on reaching their destination; and the fulfilment of the conditions which had been mutually agreed upon. As had been pointed out by Mr. Erskine, these were the only objects sought to be accomplished by the laws ralating to emigration which had been passed at different times. But it was suggested that these laws had had the effect of encouraging emigration! Whether this was really the case he could not say. He could only repeat that the sole object of the laws in question was not to encourage emigration, but to protect emigrants. If the effect of the laws had been to promote emigration, it only shewed how careful the framers had been so to frame their legislation that it should afford substantial protection to the classes for whose benefit it was designed. He could not think that it would be wise in the Government now to alter the policy which it had pursued for some years in respect to emigration. In the proposed Bill for consolidating and amending the Emigration laws, upon the preparation of which Mr. Maine had told them he was engaged, it might be advisable to introduce some additional safeguards, shewn by the experience of past years to be necessary, in order to secure to every Native wishing to emigrate full knowledge of what he was about to do, of the country to which he was going, and of what would happen to him there. He had no doubt Mr. Maine would make

ample provision in his Bill with this view. He (Mr. Harington) saw no reason to suppose that emigration would ever reach such a height in this country as to become positively injurious. He thought that there was an influence at work which would serve as a check and prevent excessive emigration. This was the great rise in the value of labor, which was steadily increasing. He fully expected that at no distant date the Colonies, whether British or Foreign, which looked to India to supplement their home supply of labor, would find themselves unable to offer sufficient inducement to the Indian laborer to leave the country, and that the Indian laborer, content with the remuneration for his labor, procurable at home, would have no desire to try to better his fortunes elsewhere. To this check on emigration no one could object. It appeared to him that it would prove a better preventive means than any which human ingenuity could devise, whether in the form of legislation or otherwise. With regard to what had been stated about the mortality amongst emigrants to Ré-union, whether on board ship, or after arrival, he could only say that returns of deaths on board of emigrant ships were required by the Government. These returns were carefully scrutinized. Any great or unusual mortality was enquired into, and such orders were passed in each case as appeared proper. He had no knowledge of many of the facts mentioned by Mr. Ellis. He thought that Mr. Ellis had made out a sufficient case for enquiry, and he felt sure that His Excellency the Governor-General would concur with him that there should be an investigation into the circumstances stated by Mr. Ellis, with a view to the adoption of such remedial measures as might seem to be called for. The Natives, who had emigrated to the neighbouring Island of Mauritius, were, he believed, generally well satisfied with the treatment which they received there, and he had heard of Natives going back to the Island after a short return to India, taking with them numbers of relatives, friends and fellow villagers, who were induced to accompany them by the favourable reports which they were able to give of the climate and of the treatment which they had received.

The Hon'ble Sir Robert Napier said, that the general result of the discussion had been to show that no restriction could be placed on the right of the Native of India to take his labor to the best market, and the question was therefore reduced to the nature of the protection to be afforded prior to emigration, and of the watch to be kept on the subsequent treatment of the emigrant. He felt certain that every possible attention would be given to these important subjects, with a view to remove any painful doubts that might now exist. But he (Sir Robert Napier) thought it fair to the Government to state that, so far as he was aware, during the two years he had been connected with it, every representation respecting the mortality among emigrants on their voyages had received the most serious consideration, and had been published, with the view of calling the attention of all who were interested in the subject to the facts, and to show that there would be no concealment of any circumstances of that nature.

The Hon'ble MR. MAINE, in reply, said that, like his Hon'ble friends, Mr. Harington and Sir Charles Trevelyan, he agreed with the Hon'ble Mr. Cowie, that very unfounded impressions of the state of population in India were abroad in Europe. It was no doubt a mistake to suppose that India was filled with a superabundant population, which could supply every labor-market in the world from its overflowings. The probability was that India, since it had been known to Europe, had never been over-populated relatively to its natural resources ; the population was only accumulated, and, as it were, congested in particular localities. The natural resources of the country were now being rapidly developed by English capital and energy, and he might add, by Native capital and energy stimulated by English example; and he (Mr. Maine) fully believed it would soon appear that India had not more laborers than she required for herself. The time was near at hand when European nations and British Colonies would have, to a great extent, to relinquish the notion that the void caused by the abolition of slavery would always be filled up from India. At the same time he must say that, in his opinion, the stoppage of the supply of labor from India would be brought about, not by [redacted] any increased stringency of positive law—though he guarded himself against stating that no increase of stringency in some respects would be required,—but by the operation of natural laws; by the natural gravitation of labor towards the nearest field of remunerative employment. They must not forget that it was only by accident that any legislation of the kind now proposed was required. All emigration laws, such as the Bill before the Council, were preceded and underlain by the principle laid down by the Hon'ble Mr. Harington, the right of every subject of Her Majesty to go anywhere he pleased—to the very ends of the earth if he thought fit—for the sake of bettering his condition ; that principle, he took the liberty of saying, ought [redacted] to be denied, least of all men, by an Englishman in India. These emigration Bills only restored the fundamental principle which had been exceptionally, temporarily, and for particular causes suspended. When a Native of India was solicited to go to St. Croix or elsewhere, the burden of proving that he ought not to be allowed to expatriate himself rested on those who opposed his going. It was not enough to show that he had mistaken his interest ; it must be established that he exposed himself to actual danger, suffering, or cruelty. No doubt, considering how impressionable were the Natives of India under the influence of their Governments, it would be very wrong in Government actively to encourage emigration. On this point the suggestions of the Hon'ble Mr. Ellis were most valuable, and on the part of the Government, he (Mr. Maine) might assure the Council they would receive the fullest attention when the measure of consolidation was [redacted]. prepared

The Motion was put and agreed to.

The Hon'ble Mr. Maine then moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned.

M. WYLIE.
Deputy Secy. to the Govt. of India,
Home Department.

Calcutta,
The 4th February 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., C. 67.

THE Council met at Government House, on Wednesday, the 11th February 1863.

PRESENT :

Major-General the Hon'ble Sir R. Napier, K.C.B., *Presiding.*
The Honb'le H. B. Harington.
The Hon'ble H. Sumner Maine.
The Honb'le Sir C. E. Trevelyan, K.C.B.
The Honb'le C. J. Erskine.
The Hon'ble W. S. Fizwilliam.
The Hon'ble D. Cowie.
The Honb'le Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C.B.
The Hon'ble A. A. Roberts, C.B.

PARTITION OF ESTATES BILL.

The Honb'le Mr. HARINGTON presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government.

MAHOBA AND JEITPORE BILL.

Also the Report of the Select Committee on the Bill to bring the Pergunnahs of Mahoba and Jeitpore, in the district of Humeerpore, under the operation of the General Regulations.

STRAITS MUNICIPAL BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill to authorize the extension of the term of office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore and Malacca.

HIGH COURT (BOMBAY) BILL.

The Hon'ble MR. MAINE moved for leave to introduce a Bill to empower Judges of the High Court, and other authorities at Bombay, to direct convicts to

be imprisoned either in the House of Correction or in the Common Jail. He said that the object of the Bill was described with sufficient accuracy in the Title. It was a Bill to empower the Judges of the High Court, the Justices of the Peace and Town Magistrates at Bombay, to direct the Common Jail to be the place of imprisonment for certain classes of convicts, as well as the House of Correction, which appeared to be inconveniently crowded. The Bill, it was necessary to state, had been originally introduced into the Council of the Governor of Bombay, and, after being passed, had received the assent of His Excellency the Governor. It was found, however, to be open to the objection that it amended certain provisions of an Act passed last year by the Council of the Governor-General, and known as Act XVIII of 1862, by which Act the House of Correction was solely appointed to be the place of imprisonment under the circumstances contemplated. Indeed he (Mr. Maine) perceived that the Bill, in the form in which it had first been brought into the Bombay Council, was denominated, with perfect correctness, "a Bill to amend Act XVIII of 1862," and the nature of the measure was clearly indicated in the last Clause, which was to the effect, that nothing in Act XVIII should be construed to interfere with the provisions of the Bill. The Select Committee of the Bombay Council had altered the Title and struck out the last Clause; but, of course, the mere omission of the express reference to Act XVIII of 1862, did not render the Bill in any less degree an attempt to amend the Imperial enactment. Now the Indian Councils' Act had empowered the Councils of the Presidencies for the purpose of making Laws and Regulations, to amend or repeal any Law or Regulation made by Imperial authority in India, previously to the passing of the Councils' Act, and had therefore, by direct implication forbidden those Councils to amend an Imperial Law or Regulation passed in India subsequently to that epoch. Indeed, the very existence of such a power would be inconsistent with the whole scheme of distributed legislation which the Indian Councils' Act had established. His Excellency the Viceroy and Governor-General had therefore been under the necessity of with-holding his assent from the Bill. At the same time, it seemed to be most desirable that its object should be carried out, and accordingly he Mr. (Maine) proposed to introduce the Bill with merely verbal changes into the Governor-General's Council. As its policy seemed to have been thoroughly discussed at Bombay, he should, unless any Member objected request the President to suspend the Standing Orders at the next sitting, in order that the Bill might be at once passed.

The Motion was put and agreed to.

CONFINEMENT OF PRISONERS' BILL.

The Hon'ble Mr. Harington moved that the Report of the Select Committee on the Bill for the amendment of the law relating to the confinement of Prisoners convicted of offences in Native States, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR HARINGTON then applied to the President for the suspension of Rule 26 of the Rules for the Conduct of Business, and, on the suspension of the Rule, said that the High Court had an ordinary original Criminal Jurisdiction extending beyond the local limits of its ordinary original Civil Jurisdiction, and, as the proviso to Section II was intended to extend only to Jails and Houses of Correction within the local limits of the ordinary original Civil Jurisdiction of such Court, he would move that the word " Civil " be substituted for the word " Criminal. "

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON also moved that the Bill be passed as amended.

The Motion was put and agreed to.

PEONS' BILL.

The Hon'ble MR. HARINGTON said that, as there were errors in the copies which had been circulated among the Members of the Bill to consolidate and amend the Law relating to the employment and remuneration of Peons, for the service and execution of Civil Process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal, he would, with the permission of the President, postpone his Motion for the passing of the Bill until next week.

CIVIL PROCEDURE BILL.

The Hon'ble MR. HARINGTON moved that the Report of the Select Committee on the Bill to amend the Code of Civil Procedure be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON also moved that the Bill be passed with the amendment recommended by the Select Committee.

The Motion was put and agreed to.

ADMINISTRATION OF CIVIL JUSTICE (DARJEELING) BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill to improve the administration of Justice in the District of Darjeeling be taken into consideration.

The Motion was put and agreed to.

He also applied to the President to suspend Rule 26 of the Rules for the Conduct of Business, and, on the suspension of the Rule, said that there were a few verbal amendments that appeared to be required in the Bill, and he moved that the Bill be therefore amended as follows :—

Section I, line 7 the omission of the word " other " and line 9, the substitution of the words " Judge of any such Court as aforesaid " for the words " such Judge as the case may be. "

Section II, line 6, the substitution of the words " Judge of any Court constituted as aforesaid " for the words " such Judge as aforesaid as the case may be, " and in line 9, the omission of the word " such. "

Section III, line 1 the substitution of the words " Judge as aforesaid " for the words " such Judge as the case may be. "

Section VII, line 7, the substitution of the words " Judge as aforesaid " for the words " such Judge as the case may be " ; in the same line the substitution of the word " aforesaid " for the words " as the case may be. "

The Motion for the adoption of the amendments was put and agreed to.

The Hon'ble Mr. Maine also moved that the Bill be passed as amended.

The Motion was put and agreed to.

The Council adjourned.

M. WYLIE,
Deputy Secy. to the Govt. of India,
Home Department.

Calcutta,
The 11*th February* 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Vic. C.* 67.

THE Council met at Government House, on Wednesday, the 18th February 1863.

PRESENT :

Major-General the Hon'ble Sir R. Napier, K. C. B., *Presiding*.
His Honor the Lieutenant-Governor of Bengal.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.

RECOVERY OF RENTS (AMENDMENT) BILL.

The Hon'ble MR. HARINGTON presented the Report of the Select Committee on the Bill to amend Act X of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal) so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces.

RECORDERS' AND SMALL CAUSE COURTS (BRITISH BURMAH) BILL.

Also the Report of the Select Committee on the Bill to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein in British Burmah, and to establish Courts of Small Causes in the said Towns.

ABKAREE REVENUE LAW AMENDMENT.

Also the Report of the Select Committee on the Bill to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue of Fort William in Bengal) and Act XXIII of 1860 (to amend the said Act XXI of 1856).

MERCHANT SEAMEN.

Also the Report of the Select Committee on the Bill to amend Act I of 1859 (for the amendment of the law relating to Merchant Seamen.)

REGISTRATION OF ASSURANCES.

The Hon'ble Mr. Ellis presented the Report of the Select Committee on the Bill to provide for the Registration of Assurances.

The Hon'ble Mr. Harington moved for leave to introduce a Bill to provide for the speedy adjudication of claims to waste lands. He said that this Bill had become necessary, or, if not absolutely necessary, that the present legislation was considered to be very desirable, in consequence of the measures which had lately been adopted, and which were being carried out, for the disposal of waste lands which were believed to be the property of Government. Those measures had for their object the bringing into cultivation of the waste lands situated in different parts of the country, by the sale of the lands to European and other Capitalists who were willing to invest their money in the purchase of the same. But it must be obvious, that intending purchasers would hesitate to invest their capital in waste lands, unless, at the time of sale, their right to the land sold was secured to them in such a manner as not to admit of the title being afterwards called in question by persons who claimed an interest in the land, and it was with the object of providing means for the early disposal of such claims which, though unknown to the local authorities, might still exist in respect to land proposed to be sold or otherwise disposed of on account of Government, that the present Bill had been framed. The words "otherwise disposed of" had been introduced into the Bill in addition to the word "sold," because the Government might consider it for the interests of the public to construct public buildings on some of the waste lands in their possession, or to plant a portion of such lands with trees, the wood of which might be useful at some future time for Railway and other purposes, and it was thought that there would be a convenience in so framing the provisions of the Bill that it would apply to all claims to waste lands whether proposed to be sold or otherwise dealt with. The present Bill was the only legislation considered immediately necessary in connection with the measures for the disposal of waste lands already referred to. As suggested at the commencement of these remarks, there might be no absolute necessity for the present Bill. It was not necessary to declare by law that persons who considered that they had claims to any land proposed to be sold or otherwise disposed of as waste, or who objected to the sale or other disposition of such land, had a right to prefer their claim or objection in the ordinary Courts of law. This right was clearly already possessed by such persons, and they could neither be deprived of it by an order of the Executive Government, nor would it be just to prevent their exercise of the right in some way. But the

consequence of leaving such claimants or objectors to the remedy of a regular suit under the general Regulations, to be followed by the usual regular and special appeals, would be to give them the full period of limitation, extending, it might be, in some cases, to twelve years, and indefinitely, or for a very considerable period, to delay the final decision of the case, during which interval the land might remain waste, or if the purchaser expended any capital in its improvement, he would do so at very considerable risk. The public interests would seem therefore to require that these classes of claims and objections should be treated exceptionally, and that some special provision should be made for their speedy determination. The object of the present Bill, as already noticed, was to make such provision. The Bill gave to all Collectors or other Officers exercising the powers of a Collector in Districts in which any waste lands might be situated, jurisdiction summarily to hear and determine claims and objections of the nature of those to which the Bill applied, if preferred within a certain period. Either of the parties, if dissatisfied with the Collector's decision ;—that is, the claimant or objector on the one side, and the Government, as representing the public, on the other side, would be at liberty to bring a regular suit to contest the decision before a Court to be constituted for the purpose. The Court would consist of three Judges. It was proposed that the decisions of the Court should be final, but the Court would be at liberty to state any point of law or usage having the force of law, arising in the case, for the opinion of the High Court of Judicature, or, where there was no such Court, of the highest Civil Court of Appeal in the Territory in which the land in dispute was situate. The Bill further provided for the cognizance by the Courts constituted under the Bill, of claims and objections which, for any sufficient reason, might not have been preferred to the Collector within the time allowed, but which might be brought in the Court within a period fixed in the Bill. When, however, the lands might have been sold or otherwise disposed of on account of Government, the claimant or objector, though he should succeed in establishing his claim or objection, would not be entitled to the possession of the land ; in such case he would receive pecuniary compensation. It had been objected that the time allowed for persons preferring claims and objections under this part of the Bill was too short, and that, although it might be quite proper, looking to all the attendant circumstances, that the claimant or objector should not obtain possession of the land which might have passed into other hands, or been disposed of in such a manner as to preclude its being given up without great public loss or injury, there seemed no sufficient reason why such persons should not be allowed the full period of limitation for preferring their claims or objections, which was provided by the existing law. There might be some force in this objection, and he (Mr. Harington) should be ready to consider any proposition that might be made for enlarging the period allowed for instituting a suit under Section X of the Bill. Lastly, the Bill provided for compensation being given by Government to any claimant or objector who might have been prevented from preferring his claim or objection either to the Collector

or to a Court competent to hear the same, within the time allowed, should the Government consider the claim to be a just one. These were the principal provisions of the Bill. The Bill had been framed after consultation with the several Governments. Many of the suggestions received from those Governments had been adopted, or the provisions of the Bill had been so altered as to meet objections taken by the local Governments to the Bill as originally framed. As only waste lands, of which it was believed that there were no claimants, were proposed to be sold or otherwise dealt with, it might be hoped that the claims cognizable under the Bill would not be very numerous. He (Mr. Harington) thought that the Bill, as framed, would be found to contain suitable provisions for the determination of all claims and objections that might arise in the disposal of waste lands, so as to afford ample protection to the public on the one hand against unfounded claims, and to *bonâ fide* claimants and objectors on the other hand, or claimants or objectors who really had an interest in the land proposed to be sold or disposed of in some other manner.

The motion was put and agreed to.

PEONS BILL.

The Hon'ble Mr. Harington also moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process in the Courts of the North Western Provinces of the Presidency of Fort William in Bengal be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Harington then said that he had to move the amendments of which he had given notice in the following terms :—That Sections XI and XII be transposed, and that the following words be added to Section XI when so transposed :—"And in any place not subject to the General Regulations "to which the provisions of this Act extend, or shall hereafter be extended as pro- "vided in the last preceding Section, the Judges of the principal Courts of Origi- "nal Civil jurisdiction in such place shall be the Judges to fix the number of "Peons necessary to be employed in such Courts, and in any Courts "subordinate to such Courts as provided in Section II of this Act, and "subject to the approval therein mentioned." He said that the Act might extend to Territories in which there were no Zillah Judges, and the proposed amendment was necessary to show by what Officers the power of fixing the number of Peons in those Territories was to be exercised.

The Motion was put and agreed to.

The Hon'ble Mr. Harington also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

MAHOBA AND JEITPORE BILL.

The Hon'ble Mr Harington also moved that the Report of the Select Committee on the Bill, to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Harington then proposed the amendment of which he had given notice, that the following Section be added to the Bill :—"This Act shall "take effect from such date as the Lieutenant-Governor of the North-Western "Provinces shall fix by an order to be published in the Official Gazette." He said that this amendment was proposed in consequence of a communication from the Lieutenant-Governor of the North-Western Provinces, who stated that some time must transpire before the necessary arrangements were completed for giving effect to the Bill, and that in the mean time the existing system of administration must be continued.

The Motion was put and agreed to.

The Hon'ble Mr. Harington then moved that the Bill as amended be passed.

The Motion was put and agreed to.

HIGH COURT (BOMBAY) BILL.

The Hon'ble Mr. Maine applied to the Hon'ble the President to suspend the Rules for the Conduct of Business, and, on the suspension of the Rules, moved that the Bill to empower Judges of the High Court and other Authorities at Bombay to direct convicts to be imprisoned either in the House of Correction or the Common Jail be taken into consideration.

He said that, as this Bill had reference solely to the custody of prisoners in Bombay, and as it had been thoroughly considered in the Local Council, he did not suppose that this Council would consider it necessary to delay its passing.

The Motion was put and agreed to.

The Hon'ble Mr. Maine then moved that the Bill be passed.

The Motion was put and agreed to.

The Hon'ble Mr. Maine then moved for leave to introduce a Bill to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal; the object of which was to wind up the business in the Master's Office. That Office was the Department of the former Supreme Court on its Equity side, in which its administrative business was chiefly conducted, and to which certain questions, particularly questions of fact, were referred for investigation. The Office of Master in Equity had been abolished in England, and in India, under the altered system of the Court since the fusion of the Supreme and Sudder Courts, it might be said only to survive for the purpose of winding up the business which was before the Master at the moment of the amalgamation. In order to dispose of this, it was necessary that the Master should be armed with additional powers to enable him to bring the matters before him to a conclusion. How urgently such powers were required might be inferred from the fact, which he (Mr. Maine) believed he was correct in stating, that there were some suits still pending in the Master's Office, in which no step had been taken for twenty years, not from any default on the part of that Officer, but from the unwillingness of the parties to proceed. When the Master's Offices were abolished at home, it was necessary to invest those functionaries with powers to compel parties to proceed, and, if necessary, to proceed without them. The Bill followed the English precedent, and had been drawn with the approval of the Chief Justice, so that he trusted that the Council would not object to pass the Bill at the next Meeting.

The Hon'ble Mr. Harington said that similar provisions to those contained in the proposed Bill might be necessary in respect to the Master's Offices attached to the High Courts at Madras and Bombay, and as the local Legislatures had no power to legislate on any matter of procedure in the High Courts of Judicature, he would suggest that the Bill, instead of being restricted in its application to the High Court at Calcutta, should extend to the High Courts at the other two Presidencies also.

The Hon'ble Mr. Maine said that he would ask for leave to introduce the Bill with a more enlarged Title, "for the speedy and efficient disposal of the business now pending in the Office of the Masters of the High Courts of Judicature at Fort William in Bengal, Madras and Bombay." If he found that it should be confined to the Court here, it would be easy to correct it before it passed.

The Motion was put and agreed to.

The Council adjourned.

M. WYLIE,
Deputy Secy. to the Govt. of India,
Home Department.

CALCUTTA,
The 18*th February* 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic. C. 67.

THE Council met at Government House, on Wednesday, the 25th February 1863.

PRESENT :

Major-General the Hon'ble Sir R. Napier, K. C. B., *Presiding.*
His Honor the Lieutenant-Governor of Bengal.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.

RELIGIOUS ENDOWMENTS BILL.

The Hon'ble the LIEUTENANT-GOVERNOR of Bengal presented the Report of the Select Committee on the Bill to enable the Government to divest itself of the management of Religious Endowments. He said that the principal change which had been made was in defining more distinctly the two classes of Endowments to which the Bill was applicable. There were some Endowments, the Trustee or Manager of which was nominated by the Government, or in which the nomination of the Trustee or Manager was subject to the confirmation of the Government. And there were others in which the nomination was neither made by, nor subject to, the confirmation of Government. By the Bill as now framed it was provided that, where the Trustees or Managers had, up to the present time, not been appointed or confirmed by the Government, they should in future be left wholly free from Government control or interference, the Trustees exercising their functions and performing the trusts committed to them, subject only to the usual control of the Civil Courts. But where the Government had theretofore nominated or confirmed the appointment of Trustees, the Government should, once for all, in the first instance, appoint a Committee to exercise all the powers theretofore exercised by the Government. When vacancies occurred in any of these Committees the Government would have nothing to do with filling them up. The vacancies

would be filled up by election under rules framed by Government. If, when a vacancy occurred, delay was made in proceeding to an election, any party interested might apply to the Civil Court either to order an election to be made, or to appoint a new Trustee or Manager. It was unnecessary he should enter further into the details of the Bill, but he might remark that while the earlier Sections of the Bill affected only the Endowments to which the Regulations repealed by it related, Section XXII was of general application, and wholly dissevered Government from all future connection with these Trusts in all parts of India. Nothing less than this would seem to mark the determination of the Government to rid itself of a burden which had been bequeathed to it by the former Rulers of India, and to abstain from all further concern with Religious establishments.

His Honor also applied to the Hon'ble the President, to suspend the Rules for the Conduct of Business, and, on the suspension of the Rules, moved that the Report be taken into consideration.

The Motion being agreed to, His Honor moved the omission of the words "except the Settlement of Prince of Wales' Island, Singapore, and Malacca" at the end of Section XXIV.

The Motion was put and agreed to.

The Hon'ble Mr. Erskine moved, in Section III, the omission of the words "in which at the time of the passing of this Act, the nomination of the Manager, Trustee, or Superintendent shall be vested in, or," and the substitution of the words "to which the provisions of either of the Regulations specified in Section I of this Act, are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof at the time of the passing of this Act is vested in, or may."

The Motion was put and agreed to.

His Honor the Lieutenant-Governor then moved that the Bill as amended be passed.

The Motion was put and agreed to.

WORKS of PUBLIC UTILITY by PRIVATE PERSONS or COMPANIES

The Hon'ble Mr. Harington presented the Report of the Select Committee. on the Bill to provide for taking land for works of Public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken. He said that the principal alterations proposed to be made in this Bill by the Select Committee were, the omission of some of the works specified in Section II of the Bill as works of Public utility to which the provi-

sions of the Bill might be applied, and the giving power to the local Governments, before ordering a Public Work to be provisionally registered under the Bill, to appoint a Commission of Inquiry in order to obtain full information on the subject of the projected work, and the grounds of any opposition that might be offered to it. It was thought that the works proposed to be omitted were not of a nature to require general legislation, such as that designed in the Bill, and that the Report of a Commission of Inquiry, appointed as proposed, would assist the local Government in coming to a decision as to whether any work proposed to be constructed under the Bill was of sufficient public importance to justify the application of the provisions of the Bill to it. The other alterations proposed by the Select Committee related chiefly to matters of detail, and did not affect the principle of the Bill.

The Hon'ble MR. HARINGTON applied to the Hon'ble the President to suspend the Rules for the conduct of Business, and on the Rules having been suspended, moved that the Report be taken into consideration.

The Hon'ble the LIEUTENANT-GOVERNOR, with reference to the proviso at the end of Section XXVIII, wished to ask the Hon'ble Member whether that would have the effect of preventing Government from taking land by private purchase without having recourse to Act VI of 1857.

The Hon'ble MR. HARINGTON said that the proviso alluded to in Section XXVIII would not, in his opinion, prevent the local Government from privately purchasing any land required for any work of public utility under the Bill.

The Hon'ble MR. HARINGTON moved the substitution of the word "district" for "country," in line 24 of Section IX; also the insertion of the words "of India" before the word "in," in line 6 of Section XLVII; and of the words "of such work" before the word "to," in line 8 of Section LI.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON also moved that the Bill as amended be passed.

The Motion was put and agreed to.

PARTITION OF ESTATES BILL.

The Hon'ble MR. HARINGTON moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government be taken into consideration, and that the Bill be passed with the amendments, recommended by the Select Committee.

The Motion was put and agreed to.

RECOVERY OF RENTS (AMENDMENT) BILL.

The Hon'ble MR. HARINGTON moved, that the Report of the Select Committee on the Bill to amend Act X of 1859, (to amend the Law relating to the Recovery of Rent in the Presidency of Fort William in Bengal,) so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON then said he did not propose to move the amendment to this Bill, of which notice had been circulated. The Clause proposed to be added to Section I of the Bill, was intended to apply only to advances made by Zemindars and others, in receipt of the rent of land, to ryots and other under-tenants for the purchase of seed, bullocks, and the like; but it had been suggested that the Clause as worded would embrace many other classes of advances, in respect of which disputes constantly arose, and that it would not be right to exclude such disputes from the cognizance of the Civil Courts. As the extent to which this Clause might properly be carried deserved further consideration than he (Mr. Harington) had been able to give to the subject, he thought it would be better for the present not to disturb the existing law and practice. He would move that the Bill be passed as amended by the Select Committee.

The Motion was put and agreed to.

RECORDERS' AND SMALL CAUSE COURTS (BRITISH BURMAH) BILL.

The Hon'ble MR. HARINGTON moved that the Report of the Select Committee on the Bill to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein in British Burmah, and to establish Courts of Small Causes in the said Towns, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

ABKAREE REVENUE LAW AMENDMENT.

The Hon'ble MR. HARINGTON moved that the Report of the Select Committee on the Bill to amend Act XXI of 1856 (to consolidate and amend the law

relating to the Abkaree Revenue of Fort William in Bengal), and Act XXIII of 1860 (to amend the said Act XXI of 1856), be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON then said that, before moving that this Bill be passed, he wished to observe that the Bill, as originally framed, applied only to the Presidency of Bengal. In introducing the Bill he stated that, after consulting his Colleagues, the Hon'ble Mr. Erskine and the Hon'ble Mr. Ellis, he had come to the conclusion that it would be better to leave the Legislatures of Madras and Bombay, after obtaining the consent of His Excellency the Governor-General, (which was rendered necessary by the character of the legislation,) to legislate for their respective Presidencies. But on the publication of the Bill communications were received from the Governments of Madras and Bombay, which led the Select Committee on the Bill to alter it to the form in which it now stands. The Governments of Madras and Bombay stated that, with some slight modifications, the Bill would be adapted to those Presidencies, and the only objection pointed out by the Government of Madras to the extension of the Bill to that Presidency was, that it might interfere with the consolidation of the general Abkaree Laws of the Presidency ; which was in contemplation. He (Mr. Harington) however imagined that, whenever the Madras Legislature felt disposed to undertake the task of consolidating and amending the Abkaree Laws of the Presidency, they would find no difficulty in embodying the provisions of the present Bill in any Bill brought in for the purpose. In the meantime he thought there would be a convenience in the present Bill being made applicable to Madras as well as to the rest of India.

The Hon'ble MR. ERSKINE moved the omission, in the first four lines of Section II, of the words "or other Chief Revenue Authority by whatever name such Authority is called," and the substitution of the words "or other Authority specially authorized in that behalf by the local Government." And in Section III the omision of the words "Chief Revenue" before the words "Authority" in line 4.

The Hon'ble MR. HARINGTON expressed his concurrence in the amendments proposed.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON also moved that the Bill as amended be passed

The Motion was put and agreed to.

MERCHANT SEAMEN.

The Hon'ble Mr. Harington moved that the Report of the Select Committee on the Bill, further to amend Act I of 1859, (for the amendment of the Law relating to Merchant Seamen,) be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Harington also moved, that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

MUNICIPAL ASSESSMENT BILL (STRAITS' SETTLEMENT).

The Hon'ble Mr. Maine moved that the Report of the Select Committee on the Bill to authorize the extension of the term of Office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore, and Malacca, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Maine also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

REGISTRATION OF ASSURANCES.

The Hon'ble Mr. Ellis moved that the Report of the Select Committee on the Bill to provide for the Registration of Assurances be taken into consideration. He said that he trusted that, in connection with this Bill, he might be allowed to remind the Council of the very great service rendered by a late Member of this Council, Mr. Forbes, in originating legislation on this important subject, and in taking a leading part in framing the Bill which was now before the Council. So far back as in 1857 Mr. Forbes urged on the Madras Government the necessity of a legislative enactment to establish throughout the Indian Empire offices for the Registration of all documents, and to provide that unregistered documents should not be admitted as evidence in any Civil Court of Justice. The main object of such a measure was to check the monstrous system of perjury and forgery which had prevailed, and continues to prevail, in all parts of India, in connection with Civil Suits, and which had done so much to bring our Courts into disrepute. The enquiries suggested by Mr. Forbes, obtained, from those most competent to form an opinion, a complete confirmation of what Mr. Forbes had

advanced in respect to the existence, throughout India, of these evils, and the Sudder Court at Madras prepared the draft of a law on this subject, which was the foundation of the Bill with which Mr. Forbes' name was so honorably identified, and which was now before the Council. The delay that had occurred in bringing this very important measure to completion was not, he (Mr. Ellis) thought, a matter for regret. The Bill had passed through three Select Committees, and, in its earliest stage, had the advantage of the opinion and suggestions of the learned Chief Justice. The Select Committees had also, in framing this measure, the invaluable assistance of the late Mr. Ritchie, and of so accomplished a jurist as his (Mr. Ellis') Honorable friend Mr. Maine. What was contemplated and hoped by the originator of this Bill, Mr. Forbes, had accordingly taken place, and while the principles on which the original Bill was based, had been preserved, many most important additions and alterations had been made in the Bill. The Select Committees had received most valuable communications on the subject of Registration from the several local Governments, who had also forwarded the opinions of many public Officers of great experience in the administration of justice. Throughout the country there had been the greatest unanimity as to the necessity of some such legislative enactment as that which was now before the Council. It was evident that the Laws regarding Registration at present existing, had proved inoperative; this arose chiefly because the compliance with these Laws remained optional, and also, partly, because the machinery for Registration was cumbrous, and had not given that facility for Registration, which was essential if the system was to become popular. Although there was this unanimity of opinion as to the necessity of radical alteration and amendment of the present laws relating to Registration, there was a considerable conflict of opinion as to the extent to which Registration should by law be made compulsory by the exclusion of all unregistered documents as evidence in the Civil Courts. There was a great preponderance of opinion as to making the Registration of all Instruments relating to immoveable property above 100 Rupees in value compulsory, but those who were in favor of making all Registration compulsory urged, that the same reasons which applied to making Registration of Instruments referring to landed property compulsory, applied with very nearly equal force to transactions relating to moveable property; and it was argued that, even if the measure proposed should entail some hardship and vexation in respect of bonds on the poorer class of borrowers, it would be infinitely less than the ruin to which they were exposed by the present state of the law. On the other hand, to the proposed compulsory Registration it was objected, that if not really and fully carried out, the effect would be to invalidate a large proportion of the Deeds on which the transactions of the country were founded, and, in the absence of a sufficient machinery, this would doubtless be an overwhelming objection. It was also argued that the compulsory Registration of all transfers of moveable property would operate as a check upon trade, and would seriously interfere with the ordinary transactions of life. It had been the duty and the anxious care of the Select Committees to which the Bill had been referred, to preserve the principles, which, it was hoped, would make this measure a most valuable addition to the laws of this country, and,

at the same time, to guard against the serious evils which might result from a too sudden introduction of a measure of radical reform in the matter of Registration. It was felt that the Act would have to be applied to many and very different countries, and to a people who would be slow to inform themselves of a new law, or to realize at once the very great advantages which might be reasonably expected to result from this measure. With the permission of the Council, he (Mr. Ellis) would briefly state the most important provisions contained in the Bill now before the Council. The Registration of all Deeds of Gift relating to immoveable property was rendered compulsory by excluding all such Deeds executed after the passing of this Act, if unregistered, from being received in evidence by the Civil Courts of the country. So also the Registration of all Instruments, not being leases for less than one year, relating to immoveable property of more than 100 Rupees in value, was made compulsory. The Instruments, the Registration of which was, by the Bill, permissive, were Instruments relating to immoveable property of less than 100 Rupees value ; leases for periods exceeding one year ; and Instruments of various descriptions relating to moveable property. Provision was also made for the Registration on certain conditions, of Instruments executed before this Act shloud come into force. But the Bill, while leaving the Registration of these Instruments permissive, provided that there should be a limit to the time allowed for bringing actions on Instruments, the Registration of which had been provided for permissively in the Bill, but which, after the Bill became law, should not have been so registered. No action would, after the Bill became law, be entertained, unless such action, should if it related to immoveable property, be brought within two years; or if it related to moveable property, within six months from the date when the cause of action arose. It was hoped that this limitation would have the effect of making the Registration of such Instruments very general, while at the same time no undue stress would be laid upon the public, who might, with justice, complain, if suddenly, and without sufficient preparation, the Registration of all Instruments whatsoever had been made compulsory ; and he (Mr. Ellis) believed, a most valuable addition had been made to the Bill by the Sections which provided that registered Bonds for the payment of money not exceeding the sum of 100 Rupees, might be enforced without the expense and delay attending a Regular Suit, and also that registered Bonds for the payment of sums exceeding 100 Rupees, should, in like manner, be enforced. provided that the parties to such Bonds at the time of their Registration, had signified and recorded their assent to those Bonds being enforced in this manner. This summary method of enforcing such Bonds would very greatly, and most advantageously, diminish the number of Suits for small amounts which now occupied the Civil Courts of the country, would save much time and expense to Suitors, and would, while affording all reasonable protection to alleged debtors, who were enabled to show cause against the issue of execution, greatly facilitate the recovery of debts. Many of the alterations in the Bill were of such great importance that, however anxious the Select Committee might have been to hasten the promulgation of a law so urgently required, they had consi-

dered it more prudent not to recommend that the Bill should at once be passed. They considered it very desirable that this Bill, in its present complete form, should again be published, so that the local Governments and the public generally, who were so deeply interested in a law of this nature, should be well acquainted with its provisions, and that opportunity should be afforded for the expression of public opinion on the whole Bill as it now stood. The delay as to the time at which the law would actually come into force throughout the whole of India would not, by this postponement, be as great as might at first sight appear. If the Bill were to be now passed, it would have been necessary to leave it to the local Governments to determine the date at which the Act should come into force in each Territory, and as the arrangements to be made for the thorough organization and establishment of Registration Offices would have been attended with more difficulty in some than in other parts of India, the Act would have come into force irregularly at different times in the several parts of India. It was proposed in the Bill, as it then stood that the Act should come into force throughout the whole of India simultaneously on the 1st May 1864, or in a little more than a year from the present time. The Committee had also had under their consideration the advantage which would result if the provisions of the Act were extended to the local jurisdiction of all Courts established by Royal Charter, whether in the Presidency Towns, or in the Straits Settlement; but they felt that it would be very desirable to obtain, on this subject, the opinions of the Judges of those Courts. The delay in the passing of the Bill would, it was hoped, enable the Committee to recommend the removal from the Bill of those Sections by which it was provided that the Act should not apply to unregistered Instruments relating to immoveable property situate within the limits of the jurisdiction of Courts established by Royal Charter, and would thus render the Act universally applicable throughout India. With these remarks he had the honor to move that the Bill for the Registration of Assurances be republished as recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble Mr. Ellis then moved that the Bill be re-published as recommended by the Select Committee.

The Motion was put and agreed to.

WASTE LANDS BILL.

The Hon'ble Mr. Harington introduced the Bill to provide for the speedy adjudication of claims to Waste Lands, &c. He said that, since he obtained the permission of the Council to introduce this Bill, he had had the advantage of conferring with several of his Hon'ble Colleagues on the subject of the Bill, and the result had been that many important alterations had been made in the Bill

as originally drawn. He (Mr. Harington) thought these alterations were great improvements, and that they would be generally concurred in ;—*first*, the period of the advertisement mentioned in Section I of the Bill had been extended from thirty days to three months. It was considered by the Hon'ble Rajah Deo Narain, and the Hon'ble Rajah Dinkur Rao, that if the shorter period were retained many persons having an interest in the land proposed to be sold or otherwise disposed of, might be prevented, by absence or other cause, from hearing of the advertisement in time to admit of their appearing to prefer their claims or objections ; and that injustice might in consequence often be done. These objections coming from such a source were entitled to much consideration. In Section V, words had been introduced giving the Collectors or other Officers power to extend the time within which persons intending to contest by a Regular Suit, orders rejecting their claims or objections, should notify such intention, and the period allowed in Section XVIII for instituting a Suit for compensation after any land had been sold or otherwise disposed of on account of Government had been enlarged from twelve months to three years. In Section VI, the word "persons" had been substituted for the word "Judges," in order to show clearly that the Local Governments were not to be considered as restricted to official persons in constituting a Court under the Section. The Local Government would no doubt deem it advisable that one or more of the persons appointed to be Judges of such Courts should be persons not in the service of Government.

The Hon'ble Mr. Harington then applied to the Hon'ble the President to suspend the Rules for the Conduct of Business, and on the suspension of the Rules, moved that the Bill be taken into consideration.

The Hon'ble Mr. Cowie said that, from the nature and objects of this Bill, it undoubtedly ought to have been subjected to public criticism by publication in the Gazette in the ordinary way. But being introduced at this very late period of our legislative year, the result of such publication would have been to postpone the passing of the Bill for several months ; and believing that those interested or likely to be interested in the purchase of Waste Lands would much prefer the passing of such a Bill at once, he would offer no objection to the measure, though he thought it right to point out this departure from the usual wholesome rule of publication.

The Hon'ble Mr. Harington expressed his entire concurrence in what had fallen from the Hon'ble Mr. Cowie. The Bill would have been brought in on a very much earlier date ; but before it was introduced it was thought advisable to consult the various Local Governments upon its provisions. The replies of some of these Governments had only lately been received, which had caused the delay that had taken place in the introduction of the Bill, and which the Government very much regretted.

The Hon'ble the PRESIDENT said he quite concurred in the remarks of the Hon'ble Mr. Cowie, and he thought it would have been much better if the Bill could have been brought forward in time for being published, but considering the important interests awaiting a decision, it was very desirable that the Bill should be passed without further delay. In regard to the extension of the period during which claims might be submitted for possesssion of the land, it must be remembered that on one side the interests of the intending purchaser and Government were identical, the one in obtaining the land, the other in bringing it under cultivation, and their influence would be much weightier than that of any probable claimants : the Government therefore could not be too careful in guarding the rights of any just claimants. It would be the duty of the Executive Government to make it thoroughly known in every part of the country that Waste Lands were under sale, and in the instructions for the composition of the Courts of Adjustment, to convey their desire that the interests of all parties should be fairly represented.

The Hon'ble SIR CHARLES TREVELYAN said, it occurred to him to suggest the adoption of a practice which was found very useful in Ceylon, and was likely to prevent lands, which had rightful owners, being offered for sale by the Government. The practice he referred to was, that all lands which were supposed to bel ng to the Government, and were considered suitable for sale, were surveyed and their boundaries marked out beforehand, so that there always was a stock of land ready prepared for the market. This previous survey and demarcation of the land was a matter of local notoriety, giving all who were interested an opportunity of coming forward before the lands were offered for sale at all ; and, moreover, it prevented persons, who were desirous of purchasing lands, from being subjected to any unnecessary inconvenience or delay. The adoption of a simple expedient like this in India would let the public know what lands were available, and would enable intending settlers to make their arrangements much more easily than they could at present. Although the land rules in Ceylon presumed that a special preliminary application was made in reference to each lot of ground, requesting that it might be surveyed and the boundaries marked out previously to its sale, and that a regulated advance was made for the expenses, which was to be returned if the land was not knocked down to the applicant, the actual fact was, that the lands available for sale by Government were all first surveyed and demarcated, and then advertised from time to time, after which intending purchasers chose for themselves.

His Honor the LIEUTENANT-GOVERNOR said that the following steps had been taken in Bengal with reference to the survey and measurement of Waste Lands. It had been found as yet impossible to undertake a general survey of all the districts in which Waste Lands were situated. Such a survey could not be commenced in Assam until some of the survey parties now employed in Bengal

were available. But even in Assam surveyors had been sent to survey and mark off all such lands as had been applied for by purchasers. In Cachar, where demarcation preparatory to a general survey had commenced, the Officers engaged in the operation were instructed first to survey and lay down the boundaries of all lands actually granted and sold, and then, as to the remainder, to divide them off in blocks of convenient size with distinct landmarks, natural where they were to be had, and pillars built of masonry if natural boundaries did not exist. In Darjeeling, which consisted chiefly of Waste Lands, a topographical survey had been completed some time ago, and a map was now in the possession of the Superintendent, showing the position of the various streams and spurs of mountains. This map was accessible to intending purchasers, and on reference to it any land applied for could be approximately marked off and disposed of under the rules for the sale of Waste Lands. Occasionally, uncertainty as to the exact boundary might arise from deficiencies in the map, or rather from its not being fully understood by those using it, but in any such case the matter was practically settled without difficulty by the Superintendent, the purchasers being willing to abide by his decision.

The Hon'ble SIR CHARLES TREVELYAN explained that, in the observations which he had made, he had not contemplated that all the Waste Lands of a Province should be surveyed and marked out in anticipation. Certain parts of a District were usually peculiarly suited for early settlement, as being the most eligible. What he meant to suggest was, that each Local Government should ascertain what lands were more immediately desirable for settlement, and should have them surveyed so as to prepare a stock of land beforehand ready for the market; all questions of title, boundary, and the like would thus be settled before the sale. He thought it was hardly becoming that any land should be brought by the Government into the market, the right to which might be reasonably questioned. The Bill before the Council was quite in harmony with the practice to which he had referred, and he had made these suggestions only because he thought they were likely to be of public utility. In India, an intending purchaser often did not know where Government lands suited to his purpose were to be found. In Ceylon, although the law was much the same as here, in practice all the land was surveyed and mapped out beforehand, and intending settlers became aware by the Government advertisements what lands were to be had, and waited till the next periodical sale.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON then moved that the Bill be passed.

The Motion was put and agreed to.

MASTER'S OFFICE, HIGH COURT BILL.

The Hon'ble Mr. Maine introduced the Bill to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal. He said that, before he asked the President to suspend the Rules, the Council would expect him to say something of the additions made to the Bill since the description he gave of it at the last sitting. They would recollect that he moved for a Bill limited to the High Court of Calcutta, but the Hon'ble Mr. Harington had suggested that some such measure might be required at Madras and Bombay. The Government had been in telegraphic communication with the Governments of Madras and Bombay, and the answer of Bombay had been, that they would be glad to have such a measure ; of Madras that they did not require it. In that state of things, he proposed to follow a legislative precedent of last year, to make the Bill primarily applicable to Bengal, but, as in Act XVIII of 1862, to give the Governors in Council of Madras and Bombay a power of extending it to the High Courts of those Presidencies. The other additional Clauses had been inserted with the full concurrence of the Chief Justice and other Judges of the High Court at Calcutta. Act V of 1840 had substituted solemn affirmations for the old mode of swearing Hindoos and Mahomedans by the Ganges water and the Koran, but it was confined to the Mofussil ; it would now be extended to the High Courts exercising original jurisdiction, and some words would be added embracing affidavits. Sections X and XI had reference to the system of signing and serving process introduced by the Code of Civil Procedure. Under that Code, judicial process issuing from the High Court when exercising original jurisdiction was signed by the Judge, and served by a particular Officer of the Court. It was found however in Calcutta that there was evil in distracting the attention of the Judge while engaged on important judicial business by compelling him to go through the formal act of signing process; and indeed the Small Cause Courts' Act allowed process to be signed by the Clerk of the Court. The system again, of serving writs by the Officer of the Court was more adapted to the Mofussil, where individuals were (so to speak) farther apart from each other, and were easily identified, than to great cities like Calcutta and Bombay, where the serving Officer had much difficulty in identifying the person upon whom service was to be effected. Moreover this Officer had inconsistent duties. He was at once expected to be abroad serving writs, and in Court proving the service. There seemed therefore to be strong reason for reverting to the English practice of allowing process to be served by the parties or their attornies. These changes were strongly recommended by Sir Mordaunt Wells, the Judge who had been most concerned with that part of the original jurisdiction which had most to do with the matters adverted to. It was well known to all who had watched the working of the new system, that Sir Mordaunt had most faithfully carried out the application of the Code of Civil Procedure to the High Court, and to his energy and assiduity was attributable in great measure the really extraordinary

despatch of business (as it appeared to an English Lawyer) in that branch of jurisdiction. The recommendation of this Judge, concurred in by the Chief Justice, would doubtless have much weight with the Council.

The Hon'ble Mr. Maine then moved, under the suspension of the Rules, that the Bill be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Maine also moved that the Bill be passed.

The Motion was put and agreed to.

The President said he was sure that the Members of this Council would join him in congratulating their Hon'ble Colleague, Mr. Harington, on the mark of confidence, and of the sense of the valuable services he had rendered to the Government, shewn by the Governor-General in appointing him to be Lieutenant-Governor of the North-West Provinces. Whilst regretting the loss of Mr. Harington's valuable assistance, they heartily rejoiced, and wished him every honor and success in his new appointment.

Mr. Harington expressed his grateful acknowledgments to the Hon'ble the President for the manner in which he had noticed his (Mr. Harington's) services in that Council, and his appointment to the office of Lieutenant-Governor of the North-Western Provinces, which His Excellency the Viceroy had done him the honor to confer upon him.

The Council adjourned.

M. WYLIE,
Deputy Secy. to the Govt. of India,
Home Department.

Calcutta,
The 25th February 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic. cap. 67.

THE Council met at Government House, on Thursday, the 30th April, 1863.

PRESENT.

Major-General the Hon'ble Sir R. Napier, K.C.B., *presiding.*
His Honor the Lieutenant-Governor of Bengal.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K.C.B.
The Hon'ble W. Grey.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble A. A. Roberts, C.B.

CIVIL PROCEDURE (BRITISH BURMAH) ACT AMENDMENT.

The Hon'ble MR. HARINGTON moved for leave to introduce a Bill to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said territory). He said that, in the month of January last, the Council passed the Act which it was now proposed to amend. The second Section of the Act declared that there should be six grades of Courts in British Burmah, and gave their designations. Sections followed defining the jurisdiction to be exercised by the Courts of each of the six grades. From a recent letter of the Chief Commissioner of British Burmah it appeared that in the Town of Rangoon there were no Courts of the 2nd and 3rd grades, though suits, cognizable by Courts of those two grades, occasionally arose within the limits of the Town, for the adjudication of which some provision was required. In the absence of work sufficient to justify the establishment of Courts of all the grades specified in Act I of 1863, the best course appeared to be to vest some of the existing Courts of the higher grades with power to receive and determine suits, arising within the limits of their respective jurisdictions, which, from the amount or value of the claim, as well as in other respects, were within the cognizance of Courts of a lower grade. This could not, however, be done without an alteration of the law, and the first part of the present Bill contained the necessary amendment. It was not proposed to confine the operation of this part of the Bill to Rangoon, though the necessity for legislation had arisen there, but to make the provisions of the Bill generally applicable.

Then, Section I of Act I of 1863 repealed the Code called the Civil Code of the Province of Pegu, and a later Section extended to that Province, from the 1st May 1863, with certain modifications, the Code of Civil Procedure contained in Act VIII of 1859, which was in force in the remaining parts of British Burmah. It now appeared, from the letter of the Chief Commissioner already referred to, that the Chief Commissioner had, in the month of May last, extended the Code of Civil Procedure, with some reservations, to the Province of Pegu, in supersession of the Pegu Code, which he had no authority to do. The Pegu Code did not differ very materially from the Code of Civil Procedure, and certainly no Suitor could have a right to complain of injustice having been done to him by reason of his suit having been tried under the latter instead of the former Code. But the fact of the illegal extension of the Civil Procedure Code remained. This illegality might be pleaded by any disappointed Suitor in appeal from an order or decision passed against him under the Civil Procedure Code, and the Court having to dispose of the plea would find it difficult to overrule it. In order therefore to prevent what would really be a trifling with justice, the second part of the present Bill proposed to make valid the act of the Chief Commissioner, by declaring that no order or decision passed, and no proceeding held by any Court in the Province of Pegu, on or after the 20th day of May 1862, and before the first day of May 1863, should be deemed invalid merely by reason of such order or decision having been passed, or of such proceeding having been held under Act VIII of 1859, instead of under the Code called the Civil Code of the Province of Pegu, or *vice versâ*.

The Motion was put and agreed to.

IMPRISONMENT OF CONVICTS IN HOUSE OF CORRECTION OR GREAT JAIL.

The Hon'ble Mr. MAINE moved for leave to introduce a Bill to empower Judges of the High Court and other authorities at Calcutta, to direct Convicts to be imprisoned either in the House of Correction or the Great Jail; and to authorize the transfer of Convicts from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction. He said that shortly before the last adjournment of the Council, a Bill with a similar title, but applying only to Bombay, was passed. That Bill was necessary in order to remove an inconvenience which had been created by Act XVIII of 1862, which provided, amongst other things, that prisoners sentenced to rigorous imprisonment by the Supreme Courts, or by the Magistrates of the Presidency Towns, should be imprisoned in the House of Correction only. Soon after Act XVIII of 1862 came into force in Bombay, it was found that the House of Correction could not contain all the prisoners sentenced to imprisonment in it, and consequently a Bill giving the Judges and Magistrates power to sentence either

to the House of Correction, or to the Common Jail, was introduced into the Bombay Council. The measure was, however, in excess of the legislative powers of the Bombay Government, as involving the amendment of an Act passed by the Imperial Council since 1861: but it was immediately re-introduced into this Council and passed at once into law. Now then, precisely the same circumstances which necessitated the Bombay Act had arisen in the Government of Bengal. The Judges and Magistrates having only power to imprison in the House of Correction, that place of confinement had become inconveniently crowded: so crowded, that there had been much reason to apprehend an outbreak of infectious disease. Considering the urgency of the case, the Lieutenant-Governor of Bengal, on his own responsibility, directed the transfer of some of the prisoners to the Great Jail, where there was ample room for their accommodation. The Lieutenant-Governor desired that what he did should be confirmed and rendered legal by this Council, and moreover that the power of transferring prisoners from the one prison to the other, whenever occasion arose, should be given to him by law. The Bill contained three provisions:—the first was to give the Judges of the High Court, and Police Magistrates for the Town of Calcutta, power to direct the imprisonment of Convicts either in the House of Correction or the Great Jail; the second was to authorize the Lieutenant-Governor of Bengal, from time to time, as occasion rendered necessary, to order the transfer of Convicts from the one prison to the other; and the third was to legalize what had recently been done, without any strict legal authority, but under pressure of undoubted necessity, in transferring prisoners from the House of Correction to the Great Jail. As the matter was urgent, and as the policy of the measure seemed to have been acquiesced in by the Council in passing the analogous law for Bombay, he (Mr. Maine), if leave were now granted to bring in the Bill, proposed at the next Meeting of the Council to apply to the President for a suspension of the Rules, and under their suspension to move that the Bill be made at once into law.

The Motion was put and agreed to

FINANCES OF INDIA.

CUSTOMS' DUTIES, AND INCOME TAX.

The Hon'ble Sir Charles Trevelyan moved for leave to introduce a Bill to amend Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the Duties of Customs on goods imported or exported by Sea); *and also* for leave to introduce a Bill further to amend Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of 1860 (to amend Act XXXII of 1860), and Act XVI of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the 31st day of July 1862, under Act XXXII of 1860 and Act XXXIX of 1860, and otherwise to modify the said Acts). He said:—

Mr. LAING estimated that there would be a surplus in the year 1861-62, of £239,896. The Secretary of State was of opinion that two sums had been improperly omitted from the charge side of the Account, by the insertion of which the surplus was converted into a deficit of £595,513. The actual result is, that there was a deficit of £150,628 only, which we may hope is the last of the long series of Indian deficits.

The Financial year 1862-63 opens a new era. Mr. Laing estimated that there would be a surplus at the end of the year, of £179,814. The Secretary of State again objected that certain omissions and deductions had been made, by the correction of which the estimated surplus of £179,814 was converted into a deficit of £284,086. The result is that, after providing for the whole of the Expenditure, there is a clear surplus in the current year 1862-63, which terminates this day, of £697,168 according to the Regular Estimate; which has since been increased by reductions in the Home Charges and Guaranteed Interest, to £936,925.

I will now explain how the Revenue of 1862-63 has turned out, as shown in the Regular Estimate, compared with the Budget Estimate of that year, and with the actual Receipts of 1861-62.

"Land, Sayer, and Abkaree" show an improvement of £304,000 over the Budget Estimate, and a decline of £39,555 compared with the actual Receipts of 1861-62. This last, however, is not a fair comparison, for in 1861-62 there was a double Receipt, arising from the adoption for the first time of the salutary Financial rule of carrying to account all the Receipts of the year as Revenue of the year, instead of holding payments in advance in deposit until the next year; and there was also a much larger sum obtained from the sale of Khas Mehals in 1861-62, than in 1862-63. When these allowances are made, the year 1862-63 shows an increase of £646,423 under Land, Sayer and Abkaree, compared with 1861-62.

"Income Tax" has exceeded the Budget Estimate by £206,700, which is due partly to the fact that there has been a large collection of arrears of the 2 per cent. rate, which was repealed from the 1st of August last, and partly to a better management of the assessment.

"Customs" show a falling off of £87,500 compared with the Budget Estimate, and of £488,639 compared with the actual Receipts of the preceding year. This is caused by the paralyzed state of the Trade with England in Cotton Piece Goods and Yarns, which yields half our Customs Duties exclusive of Salt. Out of a total amount of Duty of £2,151,505 received in 1860-61 (excluding Salt), £1,103,401 was for Piece Goods and Yarns.

"Salt" on the other hand, shows an increase of £282,800 over the Budget Estimate, and of £774,419 over the actual Receipts of 1861-62. As this is an article of general consumption, and the price of the commoner kinds is not liable

to much variation, the effective demand for it is a good test of the circumstances of the community

The "Receipts from Opium" have surpassed the Estimate by £1,550,000. Even this is not all, for the last Opium sale of the year has since taken place, and the total Receipts from all sources are expected to exceed £8,000,000, which will raise the surplus over the Estimate to upwards of £1,700,000. The causes of this remarkable result are, that the price of Bengal Opium was estimated at Rs. 1,200 a chest, while the average price per chest actually realized has been Rs. 1,429, and that Passes were taken out for a larger number of chests of Malwa Opium than had been expected. The Receipts from Opium in 1861-62 were £6,359,269.

"Stamps" are £317,100 below the Estimate, and £160,317 below the sum realized in 1861-62. The amount received from Stamps in 1861-62 was abnormally large. It arose from the Limitation Act, which came into operation in January 1862. There was a great rush to get cases instituted previously to that date, and many Debtors, who were unable at the time to pay, gave fresh bonds on stamped paper admitting the justice of their Creditors' claims. The Indigo and Rent disputes in 1861-62 also contributed not a little to the Stamp Revenue. In the Punjab and Oudh, fees called "Tulubana" for serving processes in the Civil Courts, were charged at so much per cent. on the amount of the suit. These were subsequently paid in Stamps, but early in 1862 the plan of paying in cash was resumed, and the surplus is carried to a Local Fund for the improvement of the Judicial Establishments of the Province.

The other branches of Revenue call for no remark.

The total gross Revenue of 1862-63 is £45,105,700, which is £2,134,500 more than the Budget Estimate, and £1,276,228 more than the actual Receipts of 1861-62. It is a favourable indication of the progress of India that the Revenue is habitually under-estimated. The growth is so rapid as to outstrip every calculation which it is considered safe to make.

Excluding Opium, the remaining branches of Revenue yielded £584,500 more than the Budget Estimate, and £214,503 less than in 1861-62. This was chiefly owing to the falling off that has been noticed in Customs and Stamps.

The first point deserving of notice in the Expenditure of 1862-63 is that the charges connected with the Salt Revenue have been less by £169,100 than the Estimate, and by £90,431 than the expense actually incurred in the preceding year. These are the first-fruits of the contraction of the Government Salt Manufacture in Bengal. There was a saving of £175,000 in consequence of the abolition of one Government Agency, and of the consolidation of two other Agencies into one.

The increase under "Electric Telegraph" from £162,600 to £380,000 is only nominal. It arises from the value of stores expected from England having been included only in the later Account, and from the transfer from Public Works of the construction charges.

"The Army" shows an increase of £266,000, arising from too sanguine a view having been taken of the rapidity with which certain Military reductions would be made.

Of the £500,000 for "Education, Science, and Art," £100,000 remains unexpended. The sum of £146,453 was added to the Regular Estimate of the preceding year to make the grant up to £500,000; but as the Local Administrations were not prepared for so large an immediate extension of their operations, the money has not been spent.

The increase of £43,700 under "Superannuations" is one of the consequences of reduction of Establishments; and the increase of £42,900 under "Interest" arises from the Interest on the loan from the Maharaja of Cashmere, and on the sum funded for the Mysore Princes having been included under this head.

The total Expenditure in India in 1862-63 is £37,228,900 against an estimated sum of £36,329,400, but to this last must be added £366,300 for loss by Exchange, which was not provided for, and the real comparison therefore stands as follows:—

Budget Estimate...	£ 36,329,400
Add loss by Exchange	£ 366,300
	£ 36,695,700
Regular Estimate	£ 37,228,900
Excess of Expenditure over the Budget Estimate ...	£ 533,200

The total Expenditure in India in 1861-62 was £37,245,756, and there is therefore a decrease of Expenditure in 1862-63, compared with the preceding year, of £16,856. These results are satisfactory, inasmuch as they show improved accuracy in estimating the Expenditure and the absence of any increase in it.

The net Expenditure in England is £5,292,397, which is less than Mr. Laing's Estimate corrected by the additions which Sir C. Wood directed to be made to it (making a total sum of £5,491,432), by £199,035. This arises from reduced Expenditure at Home.

The sum paid at Home for Guaranteed Interest on Railway Capital, less net Traffic Receipts, is £1,647,478, against a Budget Estimate of £1,500,000.

The gross Expenditure in India added to the net Expenditure in England, including Railways, amounts to £44,168,775; and deducting this from £45,105,700,

the gross Revenue of India, there remains a net surplus of £936,925 of Income over Expenditure for the year 1862-63. This result is more favourable than that shown in the Regular Estimate, because, as has been already stated, information was subsequently received of reductions having been made in the Home Charges and Guaranteed Interest.

I now proceed to my Estimate of the Expenditure of the coming year 1863-64.

Under "Allowances, Refunds, and Drawbacks" the sum taken is less than the Expenditure of the two last years, chiefly because those years included a considerable sum for License Tax repaid.

"Land Revenue (including Forest) and Abkaree" show an increased charge of £124,500, caused by the additional Establishments employed to revise the assessments preparatory to the concession of a permanent settlement of the Land Revenue.

The cost of collecting the Income Tax has diminished from £121,043 in 1861-62, to £76,400 in 1862-63, and it is estimated at only £51,400 in 1863-64. This is, perhaps, as low as it can be reduced. It amounts to a charge of a little more than 3 per cent. upon the estimated produce of the Tax.

The charges connected with the Salt Revenue show a remarkable downward progress. In 1861-62 they were £646,931; in 1862-63 they were reduced to £556,500; and in 1863-64 they are estimated at only £293,100, being a diminished annual Expenditure of £353,831 in two years. In 1861-62 the Salt Revenue was collected at the rate of 14·201 per cent., including the cost of manufacture. In 1863-64 it is estimated that it will be collected at the rate of 5·425. The steps by which this great economy has been arrived at will be hereafter explained. It is enough to say at present that it is owing to the cessation of the Government manufacture of Salt in Bengal, with the help of a diminished charge of £25,000 at Madras.

The increase under "Electric Telegraph" arises from the causes which have been already noticed in reference to the Expenditure of 1862-63, viz., to the value of stores from England and the cost of construction being included in the Estimate. Provision has also been made for the formation of several new lines of Electric Telegraph.

It will be observed with regret that the charge for the "Army" has again risen from £12,466,000, at which, according to the Regular Estimate, it stood for 1862-63, to £12,646,900 for 1863-64. This addition of £180,900 is the result of a balance of increases and decreases. The chief causes of increase have been, 1st, The Bengal Native Infantry was much below its Establishment last year, but it has now been brought up to full strength. This accounts for £80,000. 2nd, The Reserve Stock of Ordnance Stores having been largely

drawn upon during the last two years without replenishment, the demands are £150,000 in excess of last year. 3rd, The practice of charging every disbursement to the year in which it occurs having been extended to the Military Accounts, there will be a difference of about £80,000 to be provided for between the arrears at the beginning and end of the year; and 4th, Six European Regiments have to be relieved this year against one last year, involving a further increase of £70,000 or £80,000, after allowing for volunteering.

On the other hand, several measures of reduction have been adopted. There is one Regiment of European Infantry and one Local Corps (the Pegu Battalion) less. Eleven Troops of European Cavalry are in course of gradual absorption; and the Establishment of 24 Regiments of Native Cavalry has been diminished by 36 men each. As the strength of the Native Cavalry Regiments was below their Establishment, the effect of this last arrangement has been rather to save future increased expense than to make any immediate reduction.

Although the Establishment of the Army, as now fixed, is not to be revised until the changes which will be made by the Railways and other means of improvement in progress shall have been more fully developed, much may be done to reduce the annual Expenditure, by a careful manipulation of administrative details, without impairing either the interests of the Officers or the efficiency of the Service. On the contrary, both are often promoted by well devised economical arrangements. The necessity for action of this kind, in reference to the Indian Army, is very urgent. In so vast an Establishment, many and often well-founded applications for increased Expenditure are made from various quarters; and if these are not met by a pervading spirit of economy, ready to avail itself of every opportunity of effecting an unobjectionable saving, the Expenditure must go on creeping upwards till public attention is called to the subject. This single item of my Estimate equals the average cost of the British Army, and to this has to be added £2,213,000 more of Indian Military Expenditure, included among the Home Charges. The great interests of our Nation in India require, that the Estimate for the Indian Army should at least undergo the sifting to which the War Office Estimate is subjected before it is laid before Parliament.

The "Indian Navy" has disappeared from the Accounts, having been dissolved under instructions from the Secretary of State, and the protection of the Indian and adjoining Seas has been entirely committed to Her Majesty's Naval Force; but "Marine Charges" continue to occupy the next place to the "Army," because they are chiefly incurred in paying for the conveyance of Troops and Stores. The Estimate for 1863-64 is less by £193,000 than the Regular Estimate of 1862-63, and by £379,193 than the actual Expenditure for 1861-62. This is caused by the employment of hired and contract vessels in the place of vessels belonging to the Government, and by the arrangements in progress for transferring the Government Dockyards to private Companies.

The provision proposed for the Public Works expected to be carried on in 1863-64 is as follows:

It was ascertained by a careful analysis of the grant for the preceding year, 1862-63, that, of the aggregate amount of £4,260,000, the sum which had been appropriated to Works of Public Improvement was £2,380,000. It is proposed to make a similar appropriation for 1863-64, and to add to it a Reserve Fund of 10 per cent. or £238,000, to be held in hand by the Supreme Government to be applied to meet any special cases of Cotton Roads or other Works which cannot be provided for out of the proportion of the sum of £2,380,000 allotted to the Local Governments and Administrations.

In order that the Local Governments may work on confidently from year to year, following out consistent plans, maintaining Establishments in proper proportion to the work to be done, and preserving satisfactory relations with Contractors, it is necessary that the appropriations should not only be large, *but steady;* or, in other words, that they should vary as little as possible from year to year. At the same time it is desirable that means should exist of supplementing local deficiencies and of accelerating any Works the early completion of which is of special public importance. Both these ends will be attained by the arrangement proposed.

The appropriation for Civil Buildings and ordinary Repairs and other Military Works will be the same as last year; that is £570,000 for the former, and £650,000 for the latter.

The sum assigned this year for building new Barracks was £50,000; but a necessity exists for constructing permanent Barracks for our European Troops at central strategic Stations which are certain to be permanently held, and it is proposed to appropriate £300,000 to this object during the ensuing year. This also will be held in hand by the Central Government to be allotted as circumstances may require, according to arrangements which have been carefully considered.

The charge for "Railway Supervision and cost of Land" in 1862-63 was £132,500, and in 1863-64 it is estimated at £182,500; and the loss by Railway Exchange in the two years is respectively £366,300 and £294,600.

Lastly, another sum of £380,000 from the proceeds of the Income Tax will be divided among the different Governments and Administrations for the purpose of carrying on Local Works.

The aggregate amount of all these grants for Public Works for 1863-64 is £4,995,100, which is an increase upon the corresponding grants of this year of £466,300. Judging from past experience, it is very unlikely that the whole of this sum will be spent within the year, and, excepting only the appropriated one per cent. from the Income Tax, savings from any part of this large grant

will be available to supplement any other part. In the extremely improbable event of the whole being spent and more being wanted, we have a surplus in Reserve derived from an outside Estimate of Expenditure and an inside Estimate of Revenue, which may be drawn upon to any extent required. The Government desires that it may be clearly understood that any funds that can be expended with advantage on Cotton Roads, on Works of Irrigation or Navigation, or on any other useful Works, will be granted during the ensuing year. There will be no difficulty as far as money is concerned. The only limit will be the impossibility, in particular cases, of getting value for the outlay.

Besides the preceding grants, an old Local Fund balance amounting to £58,700, which had long been due to the Government of Bengal, has been appropriated to the construction of Railway Feeders, the plans and estimates of which had been previously prepared. Post Office and Telegraph constructions, which were included in the grant for public works in 1862-63, have been provided for in the Departmental Estimates in 1863-64 to the amount of £183,400. The total sum appropriated for Public Works in 1863-64 therefore amounts to £5,237,200, and including Guaranteed Railways, to £9,237,200.

"Salaries and Expenses of Public Departments" show a diminution of £22,600, and "Law and Justice" an increase of £154,700. This arises from the pains that have been taken to keep the ordinary Civil Establishments within proper limits, and the disposition which exists to make every necessary addition to the Judicial Establishments. The consolidation of the Supreme and Sudder Courts into united High Courts has caused a considerable additional expense.

The total estimated charge for "Police" is £2,280,000, being an increase over this year of £180,000. This arises from the extension of the new Police to Bengal Proper, which was the last Province remaining to be brought under the new system. The transition period is always an expensive one, and this was especially the case in Bengal, where twelve Police Battalions and the old Thannadaree Police had to be put down, while the Constabulary Police, which was to supersede them both, was being set up.

As the large reduction of the Native Army has been rendered possible by the extent to which the Civil duties previously performed by it have been transferred to the new Police, the two must be viewed in relation to each other. I agree with those who are of opinion that, with proper economy, £12,000,000 may be taken as the standard of the expense to be incurred in India for the Military Force of all Arms, even supposing it to be maintained at its present Establishment, and that £2,000,000 is a sufficient allowance for the Police. In order to keep the Expenditure within due limits, it is indispensably necessary that there should be only one Military, and one Civil Force. The permission to employ "Guards," or any other protective Force not included in the Army or

in the organized Police, would at once give scope to the former practice of making discretionary miscellaneous charges. Efficiency, as usual, goes hand in hand with economy. It can be secured only by concentrating attention on the Military and Police Forces, and dealing with each according to its special conditions.

The new Indian Police is now in a state to be effectually acted upon by a searching revision. At the commencement of such an organization, the Officers employed do not know what their real requirements are; and if the Establishments first set up are permitted to go on long without scrutiny, the difficulty of bringing them back to a just standard is much increased. Colonel Bruce, who has already acquired much valuable experience, will be employed during the ensuing year as Commissioner for investigating and reporting upon the Police Forces of Northern India, in concert with the Inspector General of each Force, and such other Officers as may be appointed for the purpose by the Local Governments.

Although the assignment for "Education, Science, and Art" is £38,400 less than the Budget Estimate for this year, it is £61,600 more than the sum likely to be expended according to the Regular Estimate. Even so, it bears no proportion to the magnitude of the object. But National Education is not merely an affair of money grants. To deserve the name, it must be supported by the contributions and co-operation of the communities concerned. What is chiefly to be desired, therefore, is a natural growth and interior expansion according to the circumstances of each Province. The object is not uniformity, but progress and efficiency; and there may be virtue even in variety, because more is likely to be accomplished, on the whole, when each Government is left to follow the bent of its own wants and inclinations, and because there is a positive advantage in the experiment being tried in different ways. The different Local Governments by which the administration of India is carried on have a great deal to learn from each other. An elaborate system for the Education of the Upper and Middle Classes has been successfully worked out in Bengal, while in the North-West Provinces and Madras much progress has been made in laying the foundation of a really popular system. Large Local Funds are already expended on Education, and the school fees and other incidental Receipts arising out of the application of the grant, are similarly appropriated. The duty of the Central Government is to be ready to sustain and encourage every well-directed effort to promote the Education of the body of the people in every part of India, and liberal grants will, I trust, never be wanting to supplement in due proportion the Funds locally raised. If, in the course of next year, any well-considered plans are brought forward which cannot be provided for from the grant of the year, a further appropriation will be made out of the savings of other grants, if there should be any; and, if not, out of the general surplus of Income over Expenditure.

There is an increase under "Political Agencies and other Foreign Services" of £25,200 over this year, which is chiefly occasioned by the presents to be given during the Governor-General's tour.

Under "Superannuation and Retired allowances" an additional sum of £7,500 has been taken to provide for the increased demands for compensation likely to arise from the extensive reductions in progress.

It will be seen with satisfaction that the charge for Interest on the Debt, after increasing for several years, has received its first check, and will be less next year than this by £77,000, while there is an increase of £50,000 in the Receipts on account of Interest.

This Government has the advantage of having three *real* Sinking Funds.

The first of these is the proceeds of the sale of Waste Lands, and of the redemption of fixed Rent-charges, both of which, according to the instructions of the Secretary of State, are to be applied to the payment of Debt. As the same principle is applicable to all sums derived from the sale of real property yielding, or capable of yielding, Revenue, the Local Financial Officers have been directed to make Returns of the sums available for investment on this comprehensive footing. No investments have yet been made from this Fund.

The second is the sum authorized to be invested in Government Securities from the Coin and Bullion received for Notes, within the limit of the smallest amount which experience has proved to be necessary for the monetary transactions of the country. That limit has been fixed for the present, by Act XIX of 1861, at four Millions Sterling, but the sum which it has been considered proper to invest up to the present time is only one Million.

The third is the surplus of the Cash Balances beyond the amount required to carry on the Expenditure. I shall return to this point when I have to speak of the Estimate of Cash Balances for the ensuing year. One Million Sterling has been lately applied from the surplus of the Cash Balances in the extinction of Debt held in this country, and three Millions have been remitted to the Secretary of State, over and above what was wanted to meet the Home expenditure, to enable him to operate upon some portion of the Indian Debt held in England.

Neither of these three Sinking Funds is directly derived from the produce of taxation. To impose, or continue Taxes to pay off Debt, is a measure of doubtful policy; but when, from any cause, Capital accumulates beyond what is required for current purposes, instead of spending it as Income, it ought to be employed in extinguishing Debt, in order that there may be no diminution of the Capital stock of the community.

As investments made from the Waste Lands Fund and the surplus Cash Balances result in a final extinction of Debt, the Interest saved will appear in

the Estimates and Accounts in the form of a diminished charge. The investments from the Currency Deposits, on the other hand, are held in trust to meet a possible, but extremely improbable, demand for the payment of Government Notes ; and the sum annually received for Interest from this source will, therefore, be credited as Revenue, leaving the principal available for re-sale if necessary.

The total estimated Expenditure in India for 1863-64 is £37,525,300, which is £296,100 more than the Regular Estimate for 1862-63, and £279,544 more than the Actual Expenditure for 1861-62. The Estimate for 1863-64 exceeds the Estimate for 1862-63 by a larger amount, but the true comparison is not with the expectation which the Budget Estimate of 1862-63 held out, but with the near approximation to actual fact afforded by the Regular Estimate of the same year. The increased Expenditure in 1863-64 is caused by additional appropriations for Public Works the greater part of which are of the nature of a highly reproductive investment. In other respects the Expenditure has been kept below its previous level.

I shall now review the estimated Revenue of 1863-64.

" Land Revenue" is taken at £19,384,500 or £45,500 less than the sum expected to be realized in the current year. It falls short, by a much larger sum, of the amount credited in 1861-62 ; but it has been already explained that there were incidental Receipts in that year, the greater part of which cannot recur. The Estimates for the Land Revenue are made by the different Local Governments long before the end of the preceding year, with a liberal allowance for a possible failure of the harvest ; and the consequence is that, as the harvest never fails in the same season all over India, the Estimates are almost always under the mark. For this reason alone I am persuaded that the Estimate for 1863-64 is a very moderate one. There are, however, still more potent causes. The high prices of agricultural produce strongly stimulate the extension of cultivation, which is attended in the Madras and Bombay Presidencies and some other quarters with a direct proportionate increase of the Land Revenue. But, everywhere except where the Land Revenue has been already permanently settled, the hope of obtaining that great boon furnishes a powerful additional motive. In order to prevent any undue sacrifice, it has been determined that the claim of the Government against an Estate is not to be fixed until it has been cultivated up to a fair average, leaving only the usual proportion of Waste Land for pasture.

I have long been of opinion that a well considered arrangement for fixing the Land Tax would, besides indirectly augmenting other sources of Revenue, increase the productiveness of the Land Tax itself.

The Government can, under no circumstances, demand more than a moderate assessment. When, therefore, the cultivation has nearly reached its maximum, our obvious policy is to fix the assessment, and to trust for the further improvement of the Revenue to the outlay of Capital and the accretion of wealth, which are the natural results of permanency of tenure, besides

diminished expenses of collection and certainty of Receipts. Thus the country becomes divided between Estates, the assessment of which has been fixed, and Estates which the owners are endeavouring to cultivate up to the point which will qualify for its being fixed, and it is difficult to say which condition is most conducive to the increase of the Revenue.

The interests of the Revenue are also deeply concerned in the sales of Waste Land being made in the manner most convenient to intending settlers. Every difficulty will be obviated if the practical course which experience has dictated at Ceylon be adopted, *i. e.*, that, instead of leaving intending settlers to go through a series of embarrassing and expensive formalities, pains are taken to survey and mark out beforehand the most suitable allotments, with a view to their being put up to auction at fixed periods after full information has been given to all concerned. A suggestion has been already made to this effect, and matured instructions will shortly be issued.

I have commented on "Land Revenue" as it stood previously to a slight change which has been made in the form of the Accounts. The next head was "Sayer," an obsolete Arabic word, which has the same meaning as "Miscellaneous." It has latterly been composed of a variety of items connected with the Land Revenue, of which the Revenue derived from the Forests has been the most important. The progress of improvement has given a value to the Forests which they never had before, and it has been determined to give increased attention to their conservation and management, and to constitute the Revenue derived from them a separate Head in the Public Accounts. The other Miscellaneous items of Land Revenue, which appeared under "Sayer," have therefore been added to "Land Revenue," and what remains has been denominated "Forest Revenue."

The "Abkaree," or Excise upon Spirits and intoxicating drugs, is estimated at something less than the expected Receipts of this year. The plan of letting the privilege of selling Spirits and intoxicating drugs at such prices as local monopolists think most for their advantage, is giving place in several parts of India to that of "Sudder Distilleries," or a fixed Excise upon the manufacture. Whatever may be the relative merits of these two plans in their bearing upon public morality, the "Sudder Distilleries" have not, so far as the experiment has been tried, been favourable to the Revenue. The subject will be fully investigated.

The "Assessed Taxes" call for no remark. As the Income Tax year is from August to August, one quarter of the 2 per cent. Duty on Incomes below £50 a year was included in 1862-63, whereas the collection of 1863-64 will be entirely confined to Incomes above £50.

It has been already stated that the continued depression of our "Customs" Revenue is caused by the long stagnation of the Piece Goods Trade. The prevailing opinion is, that a revival is not at present to be expected, and in deference to it, I have taken "Customs" at about the sum realized in the present year.

I myself take a more sanguine view, the reasons for which will be hereafter adverted to.

"Salt" is estimated at £64,900 above the Receipts of this year, which is a moderate allowance for the growth of the consumption from the improvement of the circumstances of the people and of the means of communication with the interior, and for the increased quantity likely to be sold in Bengal in consequence of the cessation of the Government manufacture and the disposal of the remaining stock.

On all main points I concur with the view taken by Mr. Laing in his remarks upon the "Opium" Revenue in his last Financial Statement. We have gone on calling the Opium Revenue "precarious" long after the contrary has been demonstrated by actual experience. It is *anomalous*, but it is not *precarious*. It rests upon precisely the same basis as the Excise upon Spirits in England; with this difference, that the Spirits are consumed by Her Majesty's Subjects, while the Opium is consumed by the Subjects of the Emperor of China; but the Chinese will no more go without Opium than, it is to be feared, certain classes of our fellow-subjects will forego the use of Spirits. The idea of the Chinese becoming independent of us by growing their own Opium is a mere chimera. The cultivation has been permitted in China for several years with the result that the demand upon India for Opium has been continually increasing. India has been bountifully dealt with in the great division of labour established by nature. She has an advantage over all the world in producing Indigo, Saltpetre, Opium and some other things. The Chinese, on their part, are more likely to increase their cultivation of Tea and Silk than of Opium. Even if the quantity grown in China was largely increased, Bengal Opium is so much better than the native product, that it would still be sold as an article of luxury like Manilla or Havannah Cigars.

No doubt the cultivation of Opium in China would increase if the market were not supplied with a sufficient quantity of Indian Opium. In Bengal we make a quantity in each year as nearly approaching 50,000 chests as we can. In other parts of India, Opium can be freely manufactured and exported subject to a Pass Duty, and the annual quantity is gradually rising to another 50,000 chests. The wants of the China market, therefore, appear to be sufficiently supplied.

The moral justification of the Opium Revenue also follows the parallel of the Home Excise upon Spirits. Is it best to check the consumption of Opium by placing the highest possible Tax upon it; or, by leaving the cultivation and export entirely free, to give to the Chinese the means of unlimited indulgence in their favourite drug? There is only one other alternative; which is, without taking any Revenue from Opium, to maintain an Army of Preventive Officers in the interior and round the coasts of India, to secure the entire cessation of the cultivation. Indeed, we could not stop there; for there are other intoxicating drugs in common use in India and China which are more injurious than

Opium, and, if Opium were prohibited, the increase of these truly brutalizing stimulants would call for their suppression also.

In 1861-62 Mr. Laing estimated Bengal Opium at Rs. 1,748 a chest. The average price of the year was Rs. 1,614 a chest, and at the end of the year there was a surplus on Bengal and Malwa Opium, over the Estimate, of £251,708.

In 1862-63 Mr. Laing estimated Bengal Opium at Rs. 1,200 a chest. The average price of the year was Rs. 1,429 a chest, and there is likely to be a surplus of upwards of £1,700,000.

Bengal Opium has been estimated by me at Rs. 1,250 a chest, which would give a total sum of £8,290,000 upon the expected crop on both sides of India. The sum for which I have actually taken credit in my Budget Estimate is £8,000,000, which is less than Opium will yield this year.

The causes of the recent low state of the "Stamp" Revenue have been already explained. I expect that it will revive next year, but I have taken the Estimate on the supposition of its continued depression.

"Post Office" shows no increase. This Revenue is derived from voluntary payments made in return for advantages expected to be received, and it therefore depends upon the manner in which the department is regarded by the Public.

An increased Receipt is expected from the "Electric Telegraph," in consequence of the new lines which are about to be opened.

The increased Receipts under "Law" and "Justice and Police" arise from the circumstance that large Municipal contributions towards the expense of the Police, which were previously carried to Local Funds, have now been credited as Revenue.

Of the £350,000 which are the estimated Receipts from "Marine," about £150,000 are from Pilot-dues and other ordinary sources of Income. The remaining £200,000 will be from the sale of ships and Marine stores; but owing to the abolition of the Indian Navy, and to the substitution of Freight and Contract for Government Vessels, and the transfer of the Government Dock-yards to private Companies, the Receipts from this source are certain greatly to exceed the amount named.

The diminution in "Miscellaneous Military Receipts" is owing to several causes. Retrenchments not finally upheld, and consequently not actually Receipts, have been to some extent included heretofore. During the last year there has been a considerable realization on account of Remounts sold to officers, which was an exceptional measure and will not recur. The actuals of 1861-62 also include a large amount of arrear Receipts, chiefly recoveries, the result of more effective Audit.

The total amount of Revenue estimated by me for 1863-64 is £45,306,200, which is only £200,500 more than, according to the Regular Estimate, will be

actually realized in 1862-63. Indeed, when the increased Receipts from Opium, of which information has since been received, are taken into account, my Estimate of the Revenue of next year is less than the actual Receipts of this year. In the absence of any extraordinary unexpected check before the end of April 1864, there must be a progressive increase of the Public Revenue, taken as a whole, which will carry the Receipts beyond the figure at which I have taken them.

How much reason there is to expect a sustained progress, will be seen from the following statement of the Annual Revenue since the mutiny:—

1858-59	£36,060,788
1859-60	£39,705,822
1860-61	£42,903,234
1861-62	£43,829,472
Regular Estimate for1862-63	£45,105,700

From these it will be seen:—

1st.—That the increase in 1862-63 over 1858-59 is £9-044,912.

2nd.—That the average Revenue of the three last years exceeds that of the three first years by £4,389,520.

3rd.—That the aggregate increase in four years upon the Income of 1858-59 is £27,301,076; and,

4th.—That there has been an average annual increase in each succeeding year of £2,730,107.

The net Expenditure in England is estimated by the Secretary of State at £5,347,300, which is more than the Expenditure of 1862-63 by £54,903. This is caused by increased payments for the Persian Gulf Telegraph, and for the site and construction of the India Office. As the object of the first is to establish direct Telegraphic communication with England, it stands in no need of explanation; but as regards the second, I may mention that the plot of ground in London where the Foreign Office and other buildings stood has been allotted for Public Offices, and that the Foreign Office and India Office divide the Park frontage, and pay for the ground and building, which is all one design externally, according to the space they take. Therefore, India only pays exactly as England does, both for ground and building.

It is estimated that the Home Military charges will be £143,000 less in 1863-64 than in 1862-63, including a diminished payment of £50,000 to the Imperial Government for Her Majesty's Troops serving in India. Having during many years assisted in the settlement of the Home charges of Her Majesty's Troops serving in India, I have had painful experience of the public inconvenience arising from the attempt to adjust such periodical accounts upon a consideration of the infinite variety of fluctuating and perplexing details into which

they ramify, and am able to say that a great improvement has been made by substituting the principle of an average rate per man. The rate adopted up to the close of this Financial year was a provisional one, founded upon the average of a period when the recruiting arrangements were conducted on a very economical footing, and the matter is to undergo further investigation.

The Guaranteed Interest on Railway Capital, less net Traffic Receipts, is estimated by the Secretary of State at £1,617,825, which is £117,825 more than the Budget Estimate of 1862-63, and £192,745 more than the actual charge for 1861-62.

The total Expenditure which has to be provided for in 1863-64 is, therefore	£44,490,425
And, as the total estimated Revenue is	£45,306,200
The estimated surplus is	£...815,775

The Secretary of State, being strongly impressed with the public importance, in the present state of India, of expediting the construction of reproductive Public Works, and especially of Roads subsidiary to the new Railways, or opening direct communications with the Coast, authorized, by a despatch dated 30th August last, the appropriation for this purpose of any sum that might be required out of the Cash Balances, not exceeding £3,000,000 Sterling. The resources of Indian Finance have proved greater than they were at that time expected to be, and we have been able to make, out of the Revenue of the year, ample provision for all the Public Works of every kind that can be carried on within the year, leaving a clear surplus, after doing this, of upwards of £800,000. It is a matter of congratulation that the Secretary of State's object has been accomplished without the necessity of departing from the good old rule of English Finance, that the whole of the Expenditure of the year should be provided for out of ways and means raised within the year, leaving a surplus of Income besides, to meet contingencies. To use Lord Elgin's words, the exhibition of a surplus "tangible, palpable, and incontrovertible," at the present turning point of Indian Finance, is a matter of much public moment, and if we had drawn upon our Cash Balances for any portion of our current Expenditure, some doubt might still have remained on this point. The Secretary of State has since directed Six Millions Sterling to be remitted to England from the Cash Balances for the payment of Debt. The matter has thus been replaced on its right footing. Our available Capital is to be employed in extinguishing permanent charges upon Revenue, and every demand of the year is to be met, as heretofore, from the surplus of Income over Expenditure.

Before I enter upon the disposal of the surplus, I must express my grateful sense of the cordial assistance I have received from all the Public Departments, and from the Chief Officers in every part of India; but there is one obligation which I wish especially to record. The Honorable Mr. Drummond, the late Financial

Secretary, not only gave me the invaluable aid of his excellent judgment and mature knowledge of Indian Finance during his tenure of office, but after his appointment as Lieutenant-Governor of the North-West Provinces, he remained at Calcutta, with the Governor General's consent, solely for the purpose of assisting me in a task which I should have found heavy indeed without his help.

One article now charged with an import duty of ten per cent. is a material of Industry so essential to the development of the great works upon which the future of India depends, that it is proposed to charge only a Registration Fee of one per cent. upon it. I, of course, refer to Iron. The loss of Revenue will not be great; for, after separating Ironmongery and Cutlery, which are used for domestic purposes, and will still be chargeable with the ten per cent. Duty, much the largest portion of the remainder is imported for the construction of Railways, and is either added, together with the Duty upon it, to the Capital of Guaranteed Companies, the Interest of which is made good out of the Public Revenue, or is entirely exempted from Duty under a privilege lately conceded to Companies more directly based upon the principle of private enterprise. Out of a total value of £1,087,464 of Iron imported at Calcutta in 1862, £542,608 was for Rails alone: Machinery into which Iron so largely enters, is on the Free List.

Keeping the Duty on Spirits at its present rather high rate, it is proposed that the Duties charged on Beer and Wine should be lowered. Besides sharing the burden of the general high prices with the Native community, Europeans pay heavily for articles of consumption peculiar to themselves; and now that Artisans and others in narrow circumstances are resorting to this country in large numbers to assist in carrying on Public Works and Industrial undertakings of various kinds, it is desirable that they should get their European supplies with as little additional cost as possible, beyond the necessarily heavy charge of freight from England and conveyance into the interior.

The Duty on Beer, the most wholesome of stimulants and the best suited to this climate, is at present two annas or three pence per gallon. It is to be reduced to a Registration Fee of one anna.

The Duty on Wine was reduced by Mr. Laing from an uniform rate of two Rupees a gallon, to one Rupee upon Wines of less value than 12 Rupees per dozen; and two Rupees upon all of a higher value. The arrangement has not answered the object intended; for in the ten months ended on the 28th February last, only Rs. 16,499 was paid at Calcutta on Wine of less value than Rs. 12 a dozen, while Rs. 1,84,683 was paid on Wine above that value. It is proposed that every kind of Wine should be charged a Duty of one Rupee a gallon, which will be equal to an *ad valorem* Duty of about 13 per cent. Several inconveniences arising out of the present discriminating Duty will thus be avoided, and the importation of wholesome Wine will be encouraged.

The total loss of Revenue from these reductions of Duty, making the necessary allowances on Iron arising out of our connection with the Railway Com-

panies, may be estimated at £50,000. The reduction of Duty will take effect from the 1st May 1863.

Of the three great War Taxes originally proposed, the Income Tax alone came into operation; and, by subsequent legislation, Incomes less than £50 a year were exempted, and the assessments first made were accepted until the Tax expires in August 1865. It is satisfactory to the Government that the state of the Finances enables them to a certain extent to anticipate that period, and they propose that one per cent. of the Income Tax shall be remitted from the 1st August next. From that date, therefore, the Duty upon Incomes will be three, instead of four per cent.

The annual sum thus remitted is £380,000; but, as the Income Tax year is from August to August, one quarter of the one per cent., or £95,000, will come within the Financial year 1863-64, and the actual loss in that year will therefore be only £285,000, and adding to this the estimated loss of £50,000 from the remission of Customs Duties, the diminution of Revenue will be in all £335,000.

The estimated surplus of Income over Expenditure, after making ample provision for Public Works and every other object, has been shown to be £815,775; and deducting from this the above-mentioned sum of £335,000, the final surplus is £480,775.

It will be seen from the Estimate of Cash Balances in the Indian Treasuries, that, after taking seven Millions Sterling out of the Cash Balances for the payment of Debt—that is, one Million paid off in India, three remitted this year to the Secretary of State for the payment of Debt at Home, and three more to be remitted for the same purpose next year—it is expected that the Cash Balance on the 30th April 1864 will still amount to fifteen and a half Millions Sterling.

After a careful study of the Cash Balances, I have come to a decided opinion about them. Their extraordinary increase has not arisen from a surplus of Income over Expenditure. This is simply impossible, because till now we have had no such surplus for many a long year. It arises, in the first instance, from our having borrowed five Millions more than we wanted, the proof of which has been worked out by Mr. Drummond. Then there is Prize Money; Service Funds; Suitors' Funds; Local Funds of various kinds; Trust Funds; Deposits; Mr. Wilson's appropriated one per cent. from the Income Tax, a large portion of which remains unspent; the increasing Traffic Receipts from, and the diminishing Expenditure on, Railways; and the action that has been taken in curtailing advances on account, and consolidating outlying balances. Our Cash Balances are like the French institution of the *pot-au-feu*, into which everything not required for immediate consumption is thrown, with the result that there is always an abundant mess in reserve for the family. It is a characteristic of the Cash Balances that they are constantly ahead of the Estimates made of them, partly because the Estimates are based upon the *status quo*, whereas the balances are continually in process of accretion; and partly because Public Officers generally estimate

for the full amount they can by possibility spend, and there is therefore always a balance left of unexpended credits. Beginning from this year, a surplus of Income over Expenditure will help to swell the balances.

The great item of so called "Debt" must not be confounded with the genuine National Debt. It is an *omnium gatherum* of every possible description of Account Current, Trust, and Local Fund. It has long been the *bête noir* of Indian Finance, and we propose to make a real settlement of it by instructing our Financial Officers to scrutinize all the items of it, in concert with the Officers of the Local Governments, and divide them into two categories.

The first of these will contain all Funds which are properly Local—I mean those in respect to which the Local Governments or Municipalities are entitled to exercise their own discretion—and all trust Funds for which they are responsible. These will be finally placed to the credit of the Local Governments, subject only to an annual Account, to be rendered according to a prescribed form, of the Expenditure of these Local Funds, and an Estimate of the manner in which it is proposed to expend them during the ensuing year. This slight supervision seems to be required by the relation in which the Supreme Government stands towards the Local Governments, and it is also necessary for the guidance of the Supreme Government in making Grants from the General Revenue.

The other category will include those Funds which, by whatever name they may be known, are really Public Funds applicable to public purposes. These were very numerous, for almost every Office had one or more private purses of this kind, which it filled with all sorts of odds and ends, and employed in defraying public Expenditure not included in the Budget Estimate. Various receipts have also been appropriated, from time to time, to particular public services according to a mistaken principle of Finance, which has been superseded at Home by the principle of having only one Consolidated Fund, from which all payments are made. All receipts and payments on the Public Account will hereafter be carried to Revenue and charge, and it will then be seen what the Public Income and Expenditure really are.

Thus, by separating one part and incorporating another, we hope to reduce "Debt" to smaller proportions, and to establish a stricter responsibility in the application of the various sums of which it is composed; while, at the same time, a solid foundation will be laid for a self-sustained Municipal action. But, although the Account will be cleared and the administration will be improved by this process, the Cash Balances will not be diminished. The supreme Government will still be the general purse-holder, and will take care that the surplus of the Cash Balances is invested for the public benefit.

It may be asked in England why no reduction is proposed in the Duty on Piece Goods. The English Merchants in India, who have better means of information than their countrymen at Home, have not applied for any such reduction. They are aware that as the Duty of five per cent. *ad valorem* is charged on a

valuation which was fixed when prices were about half of what they now are, it really amounts only to $2\frac{1}{2}$ per cent. They also know that one argument which has been urged at Home with a show of reason has proved to be without foundation. The so-called protective Duty on the Native manufacture has utterly failed to afford protection. The Native Hand-loom Weavers have been prostrated by the blow which staggered Manchester. Having no capital of their own, nor any charitable friends to help them, they have gone down before the excessive price of the raw material, and the excessive stocks of the manufactured article firmly held by English Houses, and have emigrated, or gone upon the Railways and other Public Works, or have given themselves up entirely to agriculture. The great majority, like our own Hand-loom Weavers, were half agriculturists before; and their recent absorption in the agricultural class has been a benefit both to England and India. Such are the wonderfully productive powers of the soil and climate of India, that agriculture must always be her staple industry. Another long step has been taken in his direction. The insufficient supply of rural labour and the high price of grain and exportable produce have received some mitigation; and when Manchester sets to work again, she will find her rival local manufacturers converted to an unexpected extent into ready-money customers. There has been occasional severe distress, particularly where the manufacture was carried on for general sale at marts: but on the whole, it is a remarkable proof of the healthy, progressive state of India, that the transition has been got through with so little difficulty. The Government has not been called on for any assistance, and the only subscriptions raised have been for Manchester.

It was shown in Colonel Baird Smith's Report, that the stagnation of the Cotton Trade in India must be attributed,—1st, to the lowness of the stocks caused by the commercial difficulties in England in 1857-58; and 2nd, to the large speculative shipments made, in addition to the usual supplies, to take advantage of the high prices arising from the preceding cause. Upon this state of things came the War in America, which, threatening to cut off the supply of cotton, induced the proprietors of goods held in India to instruct their Agents to demand an equivalent advance in price to what had taken place in Europe. Shippers, believing that the Native dealers and consumers would be compelled to pay the price asked, also continued to make nearly the average shipments. But the Native dealers, being aware of the large stocks held in Europe, and of the consequences to be expected from the sudden cessation of the Civil War, would not speculate at present prices, and the Native consumers did not like to give 50 or 60 per cent. more for their clothes than they had been accustomed to do. This unusual combination of large stocks with high prices was the cause of the depressed state of the Trade. The 40, 50 and even 60 per cent. advance of price paralyzed the Trade, and not the nominal 5 per cent. Duty, which, for the reason already explained, had become in reality much less.

A further advance of price of about 20 per cent. has lately taken place in consequence of an unexpected demand on the part of the Native dealers. India

will give almost as much help by taking off the manufactured article, and thus enabling Manchester to offer a good price for the raw material, wherever it is to be had, as by furnishing the raw material itself. This great population never had so much money. They have waited a long time for cloth to get cheaper; but seeing that it does not, and that neither they nor their Wives and Daughters can go on longer wearing their old clothes, they have begun again to buy.

All that is possible is being done to increase the supply of raw Cotton. If Government became a producer or a trader in the article, private producers and traders would have to retire from the competition. The power of the Government, therefore, is limited to protecting everybody engaged in the Trade, to enforcing the strict performance of every lawful contract, and to facilitating the conveyance of cotton to the Coast. All this is being done without stint. Funds will, as I have said, be forthcoming for making Cotton Roads to any extent consistent with the possibility of execution on reasonable terms. The difficulty is, not money, but labour and superintendence. The laches of ages cannot be repaired in a single generation; still less in a year or two. We must not repeat in India the mistake made in Ireland, by not distinguishing between the ultimate capabilities of a country after its resources have been developed, and the improvements which are immediately practicable. The soil and labour of India are so largely engaged in producing Indigo, Saltpetre, Opium, Oil Seeds, Fibres, and other exportable commodities, besides this last urgent demand for Cotton, that she can with difficulty meet all the demands upon her. We are too much accustomed to look upon India as an inexhaustible fund to be drawn upon *ad libitum*. She ought rather to be regarded as a Bank, the many pressing claims upon which can be answered in full only by making the most of every available resource.

I have carefully considered whether the plan which has been adopted of late years in England, of confining Customs Duties to a limited number of principal articles of import, might with advantage be extended to India. Whether Duty be levied on many articles or on few, all must undergo the usual examination, partly for statistical purposes, but chiefly because, unless all were verified, it would be impossible to know which were liable. Nothing, therefore, is gained by limiting Duties to a few articles either in saving expense of collection or in exempting the Trade from interference. The Customs Duties in India are collected in a manner which scarcely admits of simplification, and no complaints are heard. India is such a vast and imperfectly developed country, that articles which hardly appear in one part exist in abundance in another, and entirely new staples occasionally spring into life in answer to some unexpected demand or discovery. Under such circumstances, our policy should be to levy a wide-spread but moderate Duty, so as to give free scope to Trade in time of peace, and to cherish the increase of a fund which would be our first Financial reserve in time of war. A consolidated Customs Act has lately been passed which comprehends every regulation relating to the subject except the tariff.

I promised to notice separately the change which has taken place in the Salt Revenue of Bengal. The monopoly which was established by Lord Clive in 1765, for the purpose of substituting sufficient salaries for the presents and other irregular gains which had up to that time been received by the servants of the Company, has, after passing through a modified state of existence, come to an end before it had quite completed a hundred years. A Select Committee of the House of Commons, in 1836, recommended that the import trade of Salt should be thrown open, and that the Government should confine itself to a monopoly of the local manufacture, and should sell its Salt at the cost price, with the addition of a modified fixed Duty, which was to be equally charged upon Government and upon private Salt. This plan was adopted, and the Government soon after permitted Salt to be made subject to an equivalent Excise Duty.

Since that there has been a constant struggle between the Government Manufacture and the Private Trade. The long exclusion of Foreign Salt had given rise to a caste feeling in favour of Bengal Salt, which, however much it might be mixed with earthy particles, was preferred by the Natives to the purest and best Cheshire Salt; and the latter was even adulterated to make it look like Bengal Salt. At last, Cheshire Salt was delivered at a price which overcame the prejudice against it, and it began to sell freely throughout the Lower Provinces of Bengal, in places in which no Salt of the kind had ever been seen, and in which its exposure to sale would hardly have been tolerated in former years by the ignorant villagers. Its conquests are not likely to end here. As the whole available carriage on the North-West Frontier has been engaged to meet the pressure of the Cotton Trade, the importation of Salt from that quarter has fallen off, and Liverpool Salt is sent far into the interior, by Rail and River, to supply the void. This is another instance of the unlimited confidence that may be placed in the self-adjusting capacity of Trade if it is really left to itself.

The rapid increase of the sales of private imported Salt and the corresponding decrease of the sale of Government Salt will be seen from a table submitted by me.

As it gradually became apparent that the private Trade might be relied on for the necessary supply of Salt, the Government withdrew from the manufacture. At the beginning of the present Financial year, the Chittagong Agency was closed, and the Tumlook and Hidgelee Agencies were united into one; and in February last, orders were issued entirely to discontinue the manufacture, by closing each Salt Pan as soon as the first advances of the season had been worked off.

The charges of manufacture were diminished last year by £175,000, and this year there has been a further reduction of £237,500. This is not all saving, because the expenditure was of the nature of an advance recoverable by the sale of the Salt. Nevertheless, the Government was permanently deprived of the use of a large average sum of money; and it is better, for many reasons, that the public

Revenue should be collected on delivery of the manufactured article over the side of a ship, than by an elaborate system of advances, manufacture, and sale, absorbing time and money, which can be ill spared from the really necessary purposes of Government.

The clearing of the Forests and the draining of the swamps at the mouths of the Ganges were seriously interfered with by the Salt manufacture. Large tracts had to be kept in a half-submerged state to promote evaporation, and a portion of the Sunderbuns was maintained in a state of nature to grow fire-wood to boil the Salt. As it is not to be expected that private persons will take up a losing business from which the Government is retiring, the accelerated improvement of these important Suburban Districts may be confidently looked for. The Moolunghees, or labourers in the Salt Pans, are, like the Weavers, already half agriculturists, and the demand for their labor, as such, will be increased by the Salt lands being given up for cultivation. The prices of agricultural produce are so high that every resource should be made available to increase production.

The remaining Government stock of Salt consists of 8,018,161 maunds, or 294,545 tons. When the Government undertook to supply Bengal with Salt, it was necessary to keep a large reserve stock in hand; but now private Trade has shown itself perfectly capable of supplying, not only Bengal Proper, but other extensive countries in the interior besides; and the sources of supply are so varied that they cannot be cut off. The importations from Liverpool, however much they may have increased of late years, are backed by still more extensive Home resources. Independently of the Salt range in the Punjab, and the Sambhur and other Salt Lakes in Rajpootana, which have vast areas of supply, an unlimited quantity of cheap Salt can be made in the Chilka Lake, on the Frontier of Bengal and Madras, and on every part of the Coromandel Coast. In the Run of Cutch, ready-made Salt in any quantity can be had for the carting.

Besides the waste of public money caused by the locking up of so large a Capital, by the gradual melting of the Salt, and the heavy cost of ware-houses and establishments, the existence of such a stock is a constant cause of disturbance to the private Trade. As the Government has now entirely and finally abandoned the manufacture of Salt, and only seeks to recover its advances by the sale of its remaining stock, the engagement not to sell at less than cost price may be considered to have terminated with the exceptional state of circumstances which gave occasion to it. According to my view, the Government might, with perfect fairness and consistency, after giving due notice, sell by auction, from time to time, certain limited quantities of Salt till the whole was exhausted. The quantity to be brought forward should have reference to the average sales of the last four or five years of open ware-houses and fixed prices, and the upset prices should not be less than the ruling price of Liverpool Salt added to the fixed Duty. All this is for future discussion; for the present, there will be no departure from the practice of selling at cost price.

At the present rate of wages, the highest Salt Duty paid in British India amounts only to an insignificant charge upon the earnings of an ordinary laborer. This Tax is levied in a manner free from inquisition, and with less expense and greater certainty than perhaps any other that could be devised. The Salt Tax, and the Excise upon Spirits and intoxicating drugs, amounting together to about seven and a quarter Millions Sterling, are contributed by 150 millions of the people of India, and these Taxes stand in the place of the 40 Millions Sterling paid by the 30 Millions of the British Isles upon their food and tobacco.

Among the other advantages conferred upon the people of India by the introduction of Railways, the reduction and equalization of the price of Salt is not one of the least. At Madras a short branch line runs into the centre of the Depôt; and it is remarkable that, out of 1,229,780 maunds of Salt sold at the Depôt from April 1861 to November 1862, 1,000,887 were sent by Rail into the interior.

It has truly been said that, after a quarter of a century of exhaustive efforts beginning with the Affghan War, and ending with the Mutiny, the want of India is *Repose*. But it should not be the repose of indolence. The change should be rather from the destructive arts of War to the reproductive arts of Peace. The present is a golden opportunity which should be improved to the utmost, for we know not how soon the existing tranquillity may be interrupted. War does not consume according to rule and measure. Everything else must yield to the necessity of self-preservation.

As the Financial system is the heart of the Body Politic, upon the healthy state of which the power of meeting the demands both of peace and war depends, our first attention should be directed to it. The foundation of a sound Financial system on the English model has been laid broad and deep by my predecessors. The *organic* changes have been successfully made. What remains is to extend the application of those principles throughout the whole field of Income and Expenditure, so as to remould the entire system into one consistent whole.

With this view arrangements have been made for a thorough revision of all the Public Establishments, on the plan of that which has been in continual progress at Home, since Sir James Graham commenced his reforms at the Admiralty more than thirty years ago. For some of the more critical investigations, two of the ablest Financial Officers of Her Majesty's Government will be united with the best man whom the Indian Department actually under revision can produce. In other cases the remoulding will be effected by carefully selected Indian Officers only. The object will be, not economy in the vulgar sense, but the attainment of the highest degree of efficiency, which is alone consistent with true economy. To get rid of unnecessary processes, to ascertain the number and description of persons really required for the effective transaction of business, and to determine the best classification and scale of remuneration, is the end proposed. Moderate Establishments well worked and well paid are indispensable to a healthy state of the Public Service.

In the present condition of the Public Service in India, a searching revision on these principles must be productive of the happiest results. Although we have been overtaken by a demand for labour which requires that every available man should be restored to production, the practice in most Departments still is to have a multitude of unprofitable, ill-paid, subordinate Native servants who prey upon the public without yielding any adequate service in return. As their wages were fixed when the expenses of living were not half what they now are, they have the same excuse for abuse of power as the English Civilians had before Lord Clive's reforms. Increase of pay must, therefore, go hand in hand with diminution of numbers, and proper securities must be taken for the admission only of well qualified persons into the Public Service. The inadequacy of the pay of the subordinate Judicial Establishments has long been a public scandal, and it is highly to the honour of the respectable class who fill these appointments, that there have not been more instances of malversation. At the same time so many new Judicial and Magisterial arrangements have been made of late years on different principles, that a re-cast of the existing heterogeneous Establishments, especially in Bengal Proper, is indispensable for the purpose of restoring harmonious action, and the result will, by no means, be always an increase of Expenditure.

After the Public Establishments have been thus re-adjusted, the further modifications which the change of circumstances will from time to time require, should be made on a consideration of the Annual Budget Estimates. The value of this periodical Review, in the opportunity it affords of pruning excesses, supplying deficiencies, and adapting the Public Expenditure to the actual exigencies of the Public Service, is incalculable; but the "Budget system," as it is here called, is an instrument of portentous power; and when it is neglected and left in the hands of interested subordinates, it is capable of fearful abuse. Painful symptoms of this have appeared in a few of the Estimates which it has been my duty to review, while in other cases they have been prepared with as much fidelity and exactness as the best of our English Estimates. These inequalities will, no doubt, be corrected as the great importance of the operation by which the Public Expenditure is fixed for the ensuing year becomes better understood. This operation is the foundation of our Financial, and has a very important bearing upon the efficiency of our Administrative system.

The other great work of Peace, for which this interval of tranquillity should be utilized to the utmost, is the construction of necessary Civil and Military Buildings, and the formation of Roads, Railways, Canals, and other means of assisting the productive powers of the country. In respect to some of these the active agency of the Government is indispensable; but as regards the great bulk of Reproductive Works, it is important for all concerned that our real position should be understood.

The primary business of Government is to protect life and property, and to enable all classes of persons to pursue their respective industries and enterprises

without molestation, and with as little burden of taxation as possible; and the time and strength of the Government and its Officers are severely taxed to perform even this indispensable duty in a tolerably efficient manner.

To conduct all the undertakings which are required to support the industry of a country, forms no part of the functions of the Government. This rather belongs to the Society itself, acting through various modifications of the principle of association. In England, which is far ahead of all the world in this respect, the Government has nothing to do with the matter. In Ireland the practice was to depend upon the "Castle" for everything; and when the system of grants, either avowedly made as such, or disguised under the name of Loans, led to serious abuse, the "Board of Works" was instituted, from the scientific, systematic action of which everything was expected. Then came that terrible teacher, the Famine. Ireland threw herself without reserve upon the Board of Works, which was supported by all the money and all the agency which England could furnish; and, when it all broke down, people began at last to perceive that the task was beyond the strength of any Government, and that nothing short of the united efforts of the whole Society, of which the Government was only the organ and representative, would suffice. Since that, the "Castle" and the "Board of Works" have been allowed to contract within their proper spheres, and, under a system of awakened private industry and enterprise, Ireland has begun to blossom like the rose, and to be a source of strength and credit to England, instead of being her greatest "difficulty."

This is a true illustration of our present position in India. In the absence of all private enterprise, the Government undertook to do what it could; and, although its hands were overburdened, they were not torpid. This first era of Anglo-Indian Public Works has been illustrated by the genius of Arthur Cotton and Proby Cautley, and by the self-denying exertions and well-directed talent of many other Officers less known to fame. Public opinion, however, soon became painfully sensible of the insufficiency of these means to the end proposed; but, being still possessed with the notion of the unlimited nature of Government resources, clamour arose, both in India and England, against the "Department of Public Works," as before in Ireland against the "Board of Public Works." Have we still to learn that to furnish a worthy industrial outfit for such a country as India is beyond the power of any Government? In the prosecution of such undertakings, the Government is limited by the amount that can be annually spared out of the produce of the Taxes after provision has been made for the primary and necessary functions of Government; for the result is the same, whether appropriations are made out of current Income, or loans are raised, the interest of which has to be paid from the same source. The rapid growth of the charge for guaranteed interest for a few Trunk Railways shows that, if this scheme was extended to all the Public Works of the country, the burden could not long be borne. Then the agency which can with advantage be worked by Government is subject to strict limits. It is limited to what can be effectively superintended by a single Chief.

These bounds have been already passed, and hence the numerous imputations, too often well founded, of mismanagement or abuse on the part of the subordinate Local Officers. It is impossible for any Government to exercise an effectual control over Public Works of all kinds, simultaneously going on in almost every part of a great Continent which exceeds the whole of Europe, without Russia, both in area and in population.

According to the English practice, the Capital available for carrying on Public Works in India would be commensurate with the entire Capital stock of the Society at large, and the agency would be extended to the whole of the professional classes, supported and superintended by the classes which, although not professional in this sense, are accustomed to deal in a business-like manner with undertakings of every description. It would be even more than this, for India would be backed by all the Capital and professional skill of England. Such is the wonderful annual accretion of English wealth, drawn from all the four quarters of the world, that if the English people can once be induced to regard India as a field of investment, as South America was once regarded by them in the time of the Speculative Loans, and as North America was for a much longer period, and with much greater practical results, India would rapidly become more to England than any person has yet imagined. The rapidity with which England was covered with Railways shows in how short a time great works may be executed on this principle; and in this case we should profit by the experience of England and avoid her mistakes. Although the Government cannot itself execute all the works that are required by a country like India, it may with great public advantage exercise a general supervision by bringing the experience of the whole to bear on every part.

To manage this transition in the manner most for the benefit of Society has been one great object of Lord Elgin's Government. To pass at once in all cases from entire Government support to the entire absence of it, would be overshooting the mark. It does not follow that the Government should give no assistance at all for the future, because it has in some cases given too much heretofore. The Military and Political objects for which the Government guaranteed the Capital to be expended on certain main Trunk Lines of Railway have been accomplished, while the inconveniences of the system have become painfully apparent. For this has been substituted an arrangement under which any help that may be necessary is given without impairing the motives which are the mainspring of private enterprise. A specific grant-in-aid is made, while the entire profit and loss, together with the unrestricted management, are left with the Railway Company. The grant-in-aid is either greater or less according to the special circumstances of each undertaking; and according to the same circumstances it assumes various forms, being sometimes given in the shape of the concession of an existing road upon which the Rails may be laid; sometimes in that of a new earth-work constructed for the purpose; sometimes of a single sum paid, once for all, at so much a mile; and sometimes of the promise of an annual payment for so many years; while in other cases, only the land is given.

As experience increases, it becomes more apparent that the assistance required from the Government for the successful prosecution of Railway enterprise in India has been greatly over-estimated. My own opinion is, that there is no country in the world where, with common prudence and exertion, Railways can be made with greater advantage. The opening of the East Indian Railway to Benares has been followed by a stream of traffic with which the Railway Managers, with their present means, are totally unable to contend; and when the gap between Benares and Allahabad has been filled, the stream will still more overflow its banks. What is wanted is, not Government assistance, but English Capital and skill, *and above all, experienced and able Railway management.* The circumstance that certain Trunk Lines have been made with the aid of a Government guarantee, has led to a fallacious idea that branch lines cannot be made without it; but numerous lines of Railway may be made between populous Cities and through highly cultivated Districts, which, although branch lines in reference to the guaranteed Trunk Lines, would be themselves Trunk Lines of no mean importance in relation to their own dependent Provinces.

Again, there is a great country in the interior of India occupied by the Native States, where, owing to the absence of Engineering difficulties, Railways may be made at a cheaper rate than the cheapest English agricultural lines; while, owing to the marked difference of natural capabilities, an extensive Trade is carried on between the salt and grain producing regions on one side, and the great Gangetic Valley, with its abundant supplies of tropical produce, on the other. As we go on, we shall get entirely out of the leading strings of Government assistance, and all that will be expected will be that the State through which the Railway passes should provide the land. If the Railway will not yield the ordinary rate of profit without a subsidy from the Government, it can only be made at a loss; and there are so many lines in India which would undoubtedly yield a profit if properly made and managed, that they should at least have a priority of construction. One most important element in the comparison between the relative prospects of the guaranteed Railways and of those which will be made by private enterprise, is the substitution of private thrift and attention to details, for the careless, wasteful management which, constituted as human nature is, must be the consequence of assured profits and dependence upon others.

A similar change is in progress in Marine affairs. The Indian Navy has been dissolved, and the protection of the Coasts of India has been transferred to Her Majesty's Naval Force: arrangements are in progress for disposing of the expensive Sea-going and River Steamers hitherto in use, and employing, under fixed contracts, the Lines of Passage and Freight Steamers which have been established along the Coasts of India. The large Government Dock-Yards at Bombay, Calcutta, and Rangoon have been the chronic cause of a profuse Public Expenditure, which Home as well as Indian experience proves cannot be effectually controlled. These Establishments, with all their Machinery, Buildings, and Stores, will be transferred on suitable terms to Private Companies, constituted for the purpose of improving and working them in the interests of the Trade

of the respective places, subject only to the condition that ships belonging to Her Majesty shall have the priority of their use at the rates charged to private persons. The shipping belonging to or frequenting the Ports of Calcutta, Bombay, and Rangoon has so increased of late years, that it stands in need of support and assistance of this kind as much as the shipping of London, Liverpool, or Glasgow, and the Public Finances will gain, not only by saving the expense of the Dock-Yards, but by the encouragement which will be given to Commerce.

Having now performed to the best of my ability the responsible duty of explaining the state and prospects of the Finances, and having shown how impossible it is that plans for the public benefit can bear their expected fruit without the hearty co-operation, not only of the Official Body, but also of the independent Mercantile Community, I conclude by expressing a fervent hope that God will enable us to give effect to these good designs, by granting us a continuance of peace, and by putting into the hearts of all a spirit of mutual confidence and good-will.

The Motion was put and agreed to.

The Council adjourned.

CALCUTTA,
The 30th April, 1863.

A. G. MACPHERSON,
Offg. Depy. Secy. to the Govt. of India,
Home Department.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

THE Council met at Government House, on Wednesday, the 6th May 1863.

PRESENT :

Major General the Hon'ble Sir R. Napier, K. C. B., *presiding.*
His Honor the Lieutenant-Governor of Bengal.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble W. Grey.
The Hon'ble D. Cowie.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble A. A. Roberts, C. B.

CIVIL PROCEDURE &c. (BRITISH BURMAH) ACT AMENDMENT.

The Hon'ble MR. HARINGTON applied to the Hon'ble the President to suspend the Rules for the Conduct of Business, in order to enable him to introduce the Bill to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory). He said that copies of the Bill not having been a week in the hands of Hon'ble Members, it was necessary to suspend the Rules for the Conduct of Business at this stage to admit of the Bill being introduced and of its being carried through its several stages to-day. It was obviously desirable that the uncertainty which had been created by the extension to the Province of Pegu, with outdue authority, of the Code of Civil Procedure should be removed without delay; and that, for administrative purposes, the power which it was proposed by the Bill to confer upon the Government, of vesting certain Courts with extraordinary jurisdiction, should be exercised at once. It might be added that the Bill involved no public or private interests rendering its publication necessary before its passing into law.

The Hon'ble the PRESIDENT declared the Rules to be suspended.

The Hon'ble MR. HARINGTON then introduced the Bill, and moved that it be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARINGTON then moved that the Bill be passed.

The motion was put and agreed to.

IMPRISONMENT OF CONVICTS IN THE CALCUTTA HOUSE OF CORRECTION.

The Hon'ble Mr. Maine applied to the Hon'ble the President to suspend the Rules for the Conduct of Business, in order to enable him to introduce the Bill to empower Judges of the High Court and other Authorities at Calcutta, to direct Convicts to be imprisoned either in the House of Correction or the Great Jail, and to authorize the transfer of Convicts from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction. He said that, the first Sections of the Bill merely made it legal that prisoners sentenced by the High Court to rigorous imprisonment, or imprisonment with hard labor, should be committed either to the Great Jail or to the House of Correction, as might be most desirable; and that prisoners sentenced to penal servitude or transportation, might be kept in either of those prisons as a place of intermediate custody. Section VII declared that persons sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment might be committed either to the House of Correction or to the Great Jail. The eighth Section authorized the Lieutenant-Governor, when from sickness, over-crowding, or any other cause, it was desirable, to order the transfer of prisoners from the one place of confinement to the other; and Section IX legalised certain transfers recently effected. As it was excessively desirable that this unavoidable illegality should be removed as quickly as possible, he had no hesitation in applying to have the Rules suspended

The Hon'ble the President declared the Rules to be suspended.

The Hon'ble Mr. Maine then introduced the Bill, and moved that it be taken into consideration.

The Hon'ble the Lieutenant-Governor said, that although the Bill was one of which, so far as it went, he wholly approved, he looked upon it as a measure of a merely temporary nature, the immediate passing of which was required, but which did not meet all the necessities of the case. In his opinion, the House of Correction and the Great Jail in Calcutta ought to be on the same footing, and under the same management, as the other Jails in the Presidency of Bengal. Recently, the Adjutant General of the Army had enquired of the Government of Bengal whether any Jail in the Presidency was fit to be used as a place of confinement for European female prisoners. The Government of Bengal wrote on the subject to the High Court and enquired whether such prisoners could be accommodated in the Great Jail, and also whether the Great Jail might not well be put on the same footing, and under the same control, as all other Jails in Bengal. The Government, at the same time, wrote to the Inspector General of Jails, and enquired whether there was any Jail in Bengal suitable for the reception of European female prisoners. The Inspector General of Jails replied that there was no Jail suitable for the purpose, unless the Great Jail could be made available. No reply had been received directly from the High Court: but he (the Lieutenant-Governor) had received from the Sheriff an intimation that the Chief

Justice had no objection to have the Great Jail put under the control of the Inspector General of Jails, if the Sheriff were relieved of all responsibility in respect of it: and further that the Chief Justice approved of the Great Jail being used as a place of confinement for females. He should himself immediately submit a proposal to the Government of India to have the Great Jail put under the Government and on the same footing as other Jails in Bengal, and to relieve the Sheriff of his connection with it. He intended to make this proposal to the Government of India, and hoped that when the Council next met he should be in a position to submit a Bill, by which the object that he had in view might be carried out.

The Hon'ble MR. MAINE said, that it must not be supposed that his opinion differed from that of the Lieutenant-Governor on the general question as regarded the Great Jail; but he thought that it would not have been fair to the Council to-day to introduce clauses into this Bill for removing the Great Jail from the control of the Sheriff. It appeared to him that when the Council was asked to pass a Bill at one or two Meetings, it should know precisely its position, and that the Council ought not to be called upon, under circumstances like the present, to adopt provisions of which the full effects could not be seen at a glance.

The Motion was put and agreed to.

The Hon'ble MR. MAINE moved that the Bill be passed.

The Motion was put and agreed to.

CUSTOMS DUTIES.

The Hon'ble SIR CHARLES TREVELYAN applied to the Hon'ble the President, to suspend the Rules for the Conduct of Business, in order to enable him to introduce the Bill to amend Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the Duties of Customs on Goods imported or exported by Sea). He said that, as appeared from the Statement he had made last week, the Bill would reduce the Import Duty upon Iron from ten per cent. to one per cent., except in the case of Ironmongery, Cutlery, and Hardware, which consisted of manufactured Articles for domestic use. So the Duty on Wines and Liqueurs would be reduced to an uniform Duty of one Rupee per Imperial Gallon, while the Duty on Porter, Ale, Beer and other similar fermented Liquors was reduced from two annas the Imperial Gallon to one anna.

The Hon'ble the PRESIDENT declared the Rules to be suspended.

The Hon'ble SIR CHARLES TREVELYAN then introduced the Bill, and moved that it be taken into consideration.

The Hon'ble Mr. Cowie desired to make a suggestion regarding one portion of the Customs Bill. The Duty on Iron, which had previously been ten per cent., was reduced to one per cent. only, and the Hon'ble Sir Charles Trevelyan at their last Meeting had stated that this small percentage was in the nature of a Registration fee. He (Mr. Cowie) would submit, for the consideration of his Hon'ble Colleague whether such Registration fee was necessary, since all free goods imported and exported had an accurate account kept of them at the Custom House, both in respect of quantity and value. He suggested that Iron might reasonably be placed on the free list, instead of being chargedo ne per cent, *ad valorem*.

The Hon'ble Sir Charles Trevelyan said, that the question raised by the Hon'ble Member was one of general policy. One course of proceeding was to make a broad distinction between free and dutiable articles ; in such case, if it was desired to favor any article in particular, it was put on the free list. The other course was to lay on all, or nearly all, articles some Duty, but to make all Duties so low as not to obstruct Trade. Thus very moderate Duties were put on all goods, which might be raised as the necessities of the State required. He therefore did not look upon the question raised by the Hon'ble Member as an individual question merely affecting Iron, but he looked upon it as part of a question of general policy. He did not think that question could receive sufficient consideration at that Meeting, and he therefore proposed that the Bill should remain unaltered.

The Hon'ble Mr. Roberts said that he quite concurred in what had fallen from the Hon'ble Member (Mr. Cowie). The very same thing had struck him also : and as Machinery was free, he certainly thought Iron might also be free.

The Hon'ble Sir Charles Trevelyan explained that, in his opinion the free list had been already too much extended. Some Articles were admitted free upon which he thought a small Duty might be levied, while on the other hand there were certian Articles which he would like to see placed on a more favorable footing.

The Motion was put and agreed to.

The Hon'ble Sir Charles Trevelyan then moved that the Bill be passed.

The Motion was put and agreed to.

INCOME TAX.

The Hon'ble Sir Charles Trevelyan applied to the Hon'ble the President to suspend the Rules for the Conduct of Business, in order to enable him to introduce the Bill further to amend Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of 1860 (to amend Act XXXII of 1860), and Act XVI of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the

31st day of July 1862, under Act XXXII of 1860, and Act XXXIX of 1860, and otherwise to modify the said Acts).

The Hon'ble the PRESIDENT declared the Rules to be suspended.

The Hon'ble SIR CHARLES TREVELYAN then introduced the Bill, and moved that it be taken into consideration.

The Hon'ble RAJAH DINKAR RAO said that this Bill was of importance, in that it reduced the Income Tax from four to three Rupees per cent. It was scarcely necessary for him to express approval of this reduction, or to add his meed of praise for what Sir Charles Trevelyan had done for the relief of the people of India in this respect. He (Sir Charles Trevelyan) had had a long experience of India, and it was universally known what a well-wisher he was of the country and its people. The present Budget shewed that, although the Government had not a very large surplus, it had out of that remitted taxation to the extent of Rs. 33,50,000. This would strengthen the expectation of the people that the Income Tax would be soon abolished. He thought it would be well to introduce a provision into this Bill to repeal that part of Section VII of Act XVI of 1862, which allowed the Commissioners and Collectors to interfere on suspicion.

The Hon'ble SIR CHARLES TREVELYAN said that the Council was hardly prepared at a single Meeting to take into consideration the machinery employed for levying and collecting the Income Tax, but he could assure the Hon'ble Member who had just spoken, that every care would be taken by the Executive Government to prevent any oppression being practised.

The Hon'ble MR. HARINGTON said that the Government of India had recently been in communication with the Government of Bengal in respect to the exercise of the power of making fresh assessments, given by the section of the Act to which his Hon'ble Colleague the Rajah Dinkar Rao had referred, and he (Mr. Harington) trusted that the orders issued would for the future prevent any undue or improper exercise of that power.

The Hon'ble the LIEUTENANT-GOVERNOR said, that a case had recently occurred in Bengal, in which an Income Tax Commissioner, in the exercise of the powers given him by the Act, took upon himself to revise an assessment made upon Returns which he said were not fraudulent but evidently inaccurate. The matter having been brought to the notice of Government, orders were at once issued that action should be confined to cases in which fraudulent Returns were made.

He (the Lieutenant-Governor) was glad to take this opportunity to state, on his own behalf, and indeed, he might say on behalf of the Province which, he considered, he in some degree represented in that Council, the extreme gratification with which he had listened to Sir Charles Trevelyan's Statement at the last meeting.

It was not merely that the existence of a considerable surplus and a healthy state of Financial affairs was gratifying; but the frank disclosure of the whole condition of the Finance of the country and of the general policy of the Government could not be otherwise than most highly satisfactory to the mind of every one. No intelligent person could read the Statement which had been made, without feeling himself at once placed in such a position as to be able to form an opinion for himself on the subjects with which the Government had dealt so fully and openly, and on which it might be said to have invited discussion. In such cases every one of course had an opinion of his own: and doubtless some might think the surplus might be disposed of otherwise than it had been; as, for example, it might be thought that, instead of the uniform reduction of one per cent. of the Income Tax, it would have been better had the Tax on small Incomes been wholly remitted. But these were mere matters of individual opinion, and he (the Lieutenant-Governor) certainly did not think that on the whole a Budget could have been framed more suitable to the occasion, or more acceptable to the public. He could personally bear testimony to the very great satisfaction with which the Financial Statement had been received by all classes in Calcutta.

The Hon'ble the PRESIDENT said that, he could assure the Hon'ble Member Rajah Dinkur Rao that the orders issued by Government would ensure that, for the future, there should be no supererogatory interference in the collection of the Income Tax. It was most gratifying to know that the Financial Statement had been so very well received. He need not say that every Member of Government was well aware of the benefits of publicity, and all were deeply indebted to Sir Charles Trevelyan for the manner in which he had discharged his arduous task.

The Hon'ble SIR CHARLES TREVELYAN said that, he was very grateful for the approbation with which the Financial Statement was regarded. That it had met with that approbation was due to the great assistance he had received from all quarters—from Government Servants, as well as from independent mercantile men, bankers, and others. He had received every encouragement to go forward in the same course, and try to complete, to the best of his ability, with the support of Government, and the assistance of all classes, the work of reform so ably commenced by his predecessors, Mr. Wilson and Mr. Laing, and which he (Sir Charles Trevelyan) was highly honored in being permitted to attempt to complete. He trusted that he might be able to leave things in such a condition that, after him there would be no need to send to England for persons specially selected for the Office, but that Officers of the Indian Services would be found well qualified to take his place, and efficiently perform duties which would then have become of a regulated and ordinary kind.

The Motion was put and agreed to.

Tire Hon'ble SIR CHARLES TREVELYAN then moved that the Bill be passed.

The Motion was put and agreed to.

STAMP DUTIES IN THE STRAITS' SETTLEMENT.

The Hon'ble Mr. Maine moved for leave to introduce a Bill to remove doubts as to the operation of Act X of 1862 (to consolidate and amend the law relating to Stamp Duties) in the Settlement of Prince of Wales' Island, Singapore, and Malacca, between the 1st day of November 1862 and the 1st day of January 1863, and respecting the rate of Exchange for payment of Stamp Duties in the Currency of India in the said Settlement. He said that, as in the case of the Burmah Courts Bill which had first been passed, the necessity for this Bill was caused by an illegality into which a local Government had fallen, probably unavoidably. The Stamp Act of 1862 came into operation generally on the 1st June 1862, and it extended to the Straits' Settlement ; but the Governor-General in Council suspended its operation by a notification dated the 30th May 1862. By another Notification dated the 1st November, that Notification was cancelled ; but by a subsequent Notification dated the 6th November, the Straits' Settlement was exempted from the operation of Schedule B. The Governor of the Straits on the receipt of these Notifications found himself unable to carry the Act into force, and took the responsibility of postponing its operation until the 10th December ; and then, in consequence of his inability to meet the demand for all the stamps required, he further postponed its operation until the 1st January 1863. Although the Act was certainly in force from the date of the Notification of the 1st November until the 6th November, and, although Schedule A. remained in force after the 6th November, the effect of the orders of the Governor was to prevent instruments from being properly stamped according to its provisions: many penalties had therefore been incurred, and many documents had been rendered invalid or inadmissible in evidence. To obviate the extensive mischief which might follow from this state of things, it had been thought necessary, by legislation, to provide generally that the Act should be held not to have come into operation in the Straits' Settlement prior to the 1st January 1863. The Bill declared that Schedule A. came into operation in the Straits' Settlement on that date, and that Schedule B. should come into force from the time which the Governor-General in Council should appoint. The latter portion of the Bill was intended to cure a difficulty which had arisen in ascertaining the exact sum to be paid as Stamp Duty in the Straits. The Stamp Act gave the sum only in Rupees, but in the Straits nearly all the Currencies of the East were to be met with, and the question was, according to what rate of Exchange Stamp Duty was to be calculated? Probably a Court of Law would hold, that it should be calculated according to the true rate of Exchange of the day : and he believed that an Honorable Member of the Council (Mr. Cowie) would say that it was the practice in Calcutta that it should be calculated in that manner. The Governor of the Straits, however, had been in the habit of calculating Stamp Duties according to the rates of Exchange notified by him from time to time in the Government Gazette. This course of proceeding had its conveniences, and it was proposed by this Bill to legalise it. The Bill gave power to the Governor of

the Straits, by Notification from time to time, to fix the rate of Exchange at which Stamp Duties should be payable on instruments executed in the Straits' Settlement, the value of which is not expressed in the Currency of India; and declared all such instruments which had been duly stamped, prior to the time at which this part of the Bill should come into operation, according to a rate fixed by any former Notification, to have been duly stamped under the Act.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also applied to the Hon'ble the President to suspend the Rules for the Conduct of Business, with a view to enable him to introduce the Bill.

The Hon'ble the PRESIDENT declared the Rules to be suspended.

The Hon'ble MR. MAINE then introduced the Bill, and moved that it be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. MAINE moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned.

A. G. MACPHERSON.
Offg. Depy Secy. to Govt. of India, Home Dept

CALCUTTA;
The 6th May 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

THE Council met at Government House, on Monday, the 7th December 1863.

PRESENT :

His Excellency the Viceroy and Governor-General of India, *presiding*.
Major General the Hon'ble Sir R. Napier, K. C. B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble W. Grey.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.
The Hon'ble H. L. Anderson.
The Hon'ble C. H. Brown.

The Hon'ble Mr. Anderson and the Hon'ble Mr. Brown took the Oath of Allegiance, and the oath that they would faithfully discharge the duties of their office.

OUDH CLAIMS COMMISSIONERS' BILL.

The Hon'ble MR. MAINE introduced the Bill to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh, and moved that it be referred to a Select Committee, with instructions to report in three days. He said, that this Bill having already been published in the Gazette by the order of the late Governor-General, it was unnecessary for him to ask for leave to introduce it, and he proposed therefore to introduce the Bill, and move that it be referred at once to a Select Committee. The Bill related to certain claims of very old standing against the former Government of Oudh,—some of the claims dating from the last century. Even before Oudh became part of British India, the Government of the East India Company had frequently been urged to use its influence with the King of Oudh for the purpose of getting these claims satisfied, and on the annexation of that Province, they were pressed directly against the Government of India on the ground that Oudh having become a British possession, the Government was bound to discharge the debts of the late Rulers. The Court of Directors in 1857 directed that a Commission should be appointed to investigate these claims : but at that time the state of the country

was such that it was impossible to carry out those directions literally. Accordingly the claims were sifted, some of them by an eminent lawyer Sir Barnes Peacock who was then a Member of Council, and some of them by Mr. E. C. Bayley who was then Extra Judicial Commissioner of Oudh. Both Sir Barnes Peacock and Mr. Bayley recorded opinions unfavorable to all the claimants: but objections were taken to these decisions on the ground that the mode in which the investigations were conducted was inconsistent with the pledge given in Parliament by Lord Stanley in 1858, that these claims should be investigated by a Commission on the spot. Her Majesty's Government in England had recently requested that a Commission should issue to enquire into and dispose finally of these claims. The Government consequently had caused this Bill to be prepared, authorizing the appointment of Commissioners who would have all the powers of Judges so as to enable them to conduct the proceedings with regularity. The claimants would be permitted to appear before the Commissioners to support their claims. All necessary witnesses might be summoned and examined, and if examined, would speak under the sanction of an oath, and be subject, if they gave false evidence, to the penalties of perjury. The provisions of the Bill were not new, for they were chiefly taken from the Act under which the Bengal Indigo Commission was appointed, although in some particulars, modifications had been necessary to meet the peculiar circumstances of the case.

He would move that the Committee be instructed to report in three days. Some despatch in the passing of the Act was necessary in as much as notice had already been given that an enquiry would be held under the Act in Calcutta, which the claimants preferred to Lucknow as the place of sitting, and the time named for holding that enquiry was at hand.

The Motion was put and agreed to.

ALIMENTARY SALT BILL (CENTRAL PROVINCES).

The Hon'ble Mr. Harington moved for leave to introduce a Bill for regulating the importation and manufacture of alimentary Salt in the territories administered by the Chief Commissioner of the Central Provinces. He said a communication lately received from the Chief Commissioner of the Central Provinces brought to the notice of the Government of India the very unsatisfactory state of the law in those Provinces in respect to that branch of the public Revenue which was derived from the duty upon Salt. In the Province of Nagpore an order of the local Government, passed in the month of May 1861, to which the Indian Councils' Act of the same year had given the force of law, imposed a duty of one rupee eight annas per maund on Salt imported into the Province; but no orders were issued as to the manner in which the duty was to be levied, or as to the measures by which infringements of the order imposing the duty were to be prevented and punished. Practically the system in force in the North-Western Provinces under the provisions of Act XIV of 1843, for regulating in those Provinces the levy of Customs duties and the manufac-

ture of Salt, was stated to have been, more or less, acted upon in the Central Provinces; but it was suggested that this had been done without any legal warrant. Furthermore, it appeared that as regarded some parts of the Central Provinces orders had been issued at different times by the Government of the North-Western Provinces which would seem to be scarcely consistent with so much of Act XIV of 1843 as exempted the Saugor and Nerbudda territories from the operation of that Act. The present Bill was intended to remove the existing doubts as to the state of the law, and to place the Customs duty on Salt in the Central Provinces, and all matters connected with the levy of the same, on the same footing as in the Territories under the North-West Government. This was proposed to be done by extending to the Central Provinces the law of the North-Western Provinces so far as the same was considered suitable thereto.

A Section had been added to the Bill indemnifying the Collectors of Customs and other Officers for acts done before the passing of the Bill which might lawfully have been done had the Bill been in force at the time, and declaring that no action or proceeding should be maintained against any such Collector or other Officer in respect of any thing so done.

The Motion was put and agreed to.

POORWAH AND KHUDDEE BILL.

The Hon'ble Mr. Harington also moved for leave to introduce a Bill to bring the Jagheers of Poorwah and Khuddee, in the District of Banda, under the operation of the general Regulations. He said that the Bill was introduced at the request of the Government of the North-Western Provinces. The two Jagheers to which the Bill related, were declared by Regulation XXII of 1812 to have always been, and to be still exempted from the operation of the general Regulations. The Jagheer of Poorwah was resumed in the year 1856, and the Jagheer of Khuddee in the year 1853. From the time of their resumption the two Jagheers had been administered by the Officers of the British Government according to what was known as the non-Regulation system; but being included in a District (Banda) which was subject to the general Regulations, it was considered desirable that they also should be brought under the operation of those Regulations, in order that the entire District might be administered on one uniform system.

The Motion was put and agreed to.

HINDOO AND MAHOMEDAN LAW OFFICERS' BILL.

The Hon'ble Mr. Roberts, in moving for leave to introduce a Bill for the abolition of the offices of Hindoo and Mahomedan Law Officer, said the object of the Bill was two-fold; *firstly*, the abolition of the appointments of Hindoo and Mahomedan Law Officers throughout the country; and, *secondly*, the disseverance

of the connection of Government with the offices of Cazi-ul-Cuzat or head Cazis of Provinces, and of City Town and Pergunnah Cazis. The Council would remember that, for many years after the introduction of the British rule into India, the European Officers of the Government, partly no doubt from the paucity of their number, and partly also from their ignorance alike of the languages and of the laws of the people, did not take any direct part in the administration of Justice, which was conducted by native functionaries; and even when Lord Cornwallis, in the year 1793, constituted Courts of Justice presided over by European Judges in Bengal, and when at a later date similar Courts were established in the Madras and Bombay Presidencies, a Mahomedan and a Hindoo Law Officer was appointed to each Court of Civil Judicature for the purpose of expounding the laws of the Hindoos and of the Mahomedans in causes which might be referable to the determination of those authorities. Although to this day in suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, the Mahomedan Law with respect to Mahomedans, and the Hindoo Law with regard to Hindoos, were still the general rules by which the Courts were to form their decision, yet the assistance of Mahomedan or Hindoo Law Officers was no longer deemed expedient or necessary for the exposition of those Laws. So far back as the year 1773, Mr. Warren Hastings, with his usual discernment and energy, authorized the compilation of a Digest of the Laws of the Hindoos, and it was published the following year. He also recommended the translation of the Hedaya, the most celebrated law treatise of the Sunni school of Mahomedan Law. It was printed in Calcutta in 1794. Since then the labors of Sir William Jones, and of a great many distinguished Oriental scholars, among whom he might mention the names of Messrs. Colebrooke, Halhed, Haughton, Hamilton, Harington, Wynch, Sutherland, Sir Francis Macnaghten, Sir William Macnaghten, Sir Archibald Galloway, Dr. Sprenger, Dr. Roer, Captain Lees, and Messrs. Neil Baillie and Macpherson, and, still later a very learned Native gentleman, now a Member of the Legislative Council of His Honor the Lieutenant-Governor of Bengal, Baboo Prosonno Coomar Tagore, on this side of India—of Sir Thomas Strange and Mr. Ellis on the Madras side—of Sir Erskine Perry and Messrs. Norris, Willoughby, and Borradaile at Bombay; together with the many valuable works on both the Civil and Criminal Codes of the Hindoos and Mahomedans which had appeared in France, Germany, Holland and Russia, and at Constantinople, had given access both to the original laws and to the works of Commentators, and had rendered the Courts independant of the expositions of Hindoo and Mahomedan Law Officers. To the value of Sir William Macnaghten's famous work, entitled the Principles and Precedents of Hindoo and Mahomedan Law, Sir Edward Ryan, formerly chief Judge of the Supreme Court of Calcutta, had, in the Judicial Committee of the Privy Council, of which he was one of the Judges, borne the highest testimony. He stated that it was all but decisive on any point of Hindoo Law contained in it, and that more respect would be paid to its *dicta* by the Judges of the Calcutta Court than even to the opinions of the Pundits: and the late Horace Hayman Wilson, no mean authority, was of

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opinion that a similar character was applicable to the Mahomedan portion. There were besides, Digests of Decisions and the reported Decisions of the late Supreme and Sudder Courts and of the Zillah Courts of all the Presidencies, which had been published annually for many years past. It was under such circumstances that the Hon'ble and learned Chief Justice of the High Court of Judicature at Calcutta, soon after the formation of that Court, expressed his opinion that neither Hindoo nor Mahomedan Law Officers were any longer required. The Code of Procedure gave the Courts power to take any evidence that they might deem necessary, and they had the means in standard works, and in the rulings of the Courts for a period of seventy years, of ascertaining what the law really was. It was proposed therefore that the Courts should henceforth expound the law themselves without the intervention of Law Officers. The foregoing remarks referred to the Courts of Civil Judicature. As regarded the administration of Criminal Justice, the employment of a Law Officer was not only unnecessary, but was not compatible with the present state of the law. On the introduction of the British rule, the Government, succeeding the Mogul Government, retained the Mahomedan Law as the rule for the administration of Criminal Justice, but reserved to itself the right of introducing such alterations and modifications as reason and humanity might suggest. In the course of time, a mixed Mahomedan and Regulation Criminal Law sprung up, which prevailed for many years, and in the administration of it, the Futwa or opinion of a Mahomedan Law Officer was only occasionally necessary. But this mixed Law was finally superseded upwards of two years ago by Act XLV of 1860, known as the Indian Penal Code, which was now the Criminal Law throughout the length and breadth of British India. It minutely defined every offence, and prescribed a suitable punishment for every offence It was followed by Act XXV of 1861, called the Code of Criminal Procedure, which prescribed that if the accused person was acquitted, the Court should record a judgment of acquittal: if the accused person was convicted, the Court should proceed to pass sentence upon him, according to law. As regarded therefore the administration of Civil Justice, the retention of the offices of Hindoo and Mahomedan Law Officers was deemed both unnecessary and inexpedient, while, on the introduction of the Penal Code, the employment of Mahomedan Law Officers in the administration of Criminal Justice, had become quite obsolete. The abolition, therefore, of these offices was the first object of the Bill. The present incumbents would of course be put on the same footing as all Officers of Government whose appointments were from time to time abolished.

It was further proposed by the Bill to dissever the connection of Government with the office of Cazi-ul-Cuzat, or chief Cazi of a province, and also with the offices of City, Town and Pergunnah Cazis. These Offices did not rest upon, nor were they created by, any legislative enactment of the British Government. They were an institution of Mahomedan Government and of Mahomedan Society. We found Cazis existing in every City, Town and Pergunnah, and all that our earlier legislators sought to do was to define,

generally what the duties of Cazis were, and to provide that persons of character, and duly qualified with respect to legal knowledge, should be appointed to those offices. The letter of the Regulations of the three Presidencies regarding the appointment and removal of Cazis was nearly identical. Indeed, Regulation XI of 1802 of the Madras Code was avowedly framed upon Regulation XXXIX of 1793 of the Bengal Code. These Regulations defined the duties of Cazis to be "the preparing and attesting deeds of transfer and other law papers, celebrating marriages and performing such religious duties or ceremonies prescribed by the Mahomedan law as have been hitherto discharged by them." The Bengal Regulation added : "and also for superintending the sale of distrained property, and paying charitable and other pensions and allowances." Further, in Bengal and Madras the Cazi-ul-Cuzat or Chief Cazi was constituted the Mahomedan Law Officer in the Sudder Courts. On the Bombay side, in addition to the ordinary duties of a Cazi as described above, an important use of the office was stated to be "in furnishing the means of settling questions of inheritance and succession between Mahomedans." He hoped he had succeeded in shewing that Cazis were no longer required as exponents of Mahomedan Law. Then as regarded the duty of preparing and attesting deeds of transfer and other law papers, although Cazies were occasionally employed by the public as notaries for this purpose, they had been to a great extent superseded by the regular Registrars of Deeds who were appointed under separate enactments for the registry of Deeds. The attestation of a Deed by a Cazi was received *quantum valeat* in our Courts : but the same force did not attach to it as to the attestation of a Registrar of Deeds. It now remained for him to explain that they had long ceased to be employed in superintending the sale of distrained property, or in paying pensions and allowances. These duties had been transferred to regularly constituted and salaried servants of the Government, which Cazis had never been. A few Cazis might have received small salaries, and there were believed to be a few endowments in the Madras and Bombay Presidencies : but the majority of Cazis had been remunerated for any services they might have performed for the State by khilats or annual presents in the shape of money or shawls, which were generally bestowed on the Bengal side at the Eed Festival. For their services as public notaries, or for their attendance at marriages, &c., they were remunerated by the persons who employed them. Nor must it be supposed that the Cazis recognized by Government and appointed under the Regulations were the only Cazis in the country. For one Cazi appointed by Government there were probably ten self-constituted Cazis, who were acceptable to, and recognized and employed by, the Mahomedan community. This circumstance of itself showed that the time had arrived for discontinuing any interference on the part of Government with the appointment of Cazi, and for allowing perfect freedom of action in the matter to the Mahomedan community, subject only to a reference, in case of dispute, to a Court of Justice. Cazis, whether those who had heretofore been appointed by Government, or those who had established themselves as Cazis to the satisfaction of the community to which they belonged, would be free to dis-

charge such duties as had heretofore been performed by them and were prescribed by the Mahomedan law. All that it was proposed to do was to repeal the existing laws in our Statute Book regarding the office of Cazi, and to declare that Government would not henceforth make any fresh appointment to that office. The Bill, whether as regarded the offices of Hindoo and Mahomedan Law Officer, or as regarded the offices of Cazi-ool-Cuzat or of other Cazis, would be a mere repealing enactment, and would erase some twenty-five Regulations and Acts in whole or in part from the Statute Book. The scope of the Bill, for leave to introduce which he now moved, did not appear fully from the title given in the List of Business for the day. The title which he proposed to give to the Bill was, a Bill to repeal the laws relating to the offices of Hindoo and Mahomedan Law Officers, and to the offices of Cazi-ul-Cuzat and of Cazi, and to abolish the former offices.

The Motion was put and agreed to.

RECEIPTS OF PRESIDENCY BANKS IN LIEU OF SUB-TREASURERS' RECEIPTS BILL.

The Hon'ble Mr. Maine moved for leave to introduce a Bill to declare the receipts of the Bank of Bengal, the Bank of Madras, and the Bank of Bombay, to be good and sufficient in lieu of the receipts of the Sub-Treasurers of the Presidencies of Bengal, Madras and Bombay. He said that the Bill was necessitated by doubts which were felt by certain learned persons as to the sufficiency of receipts granted by the Secretaries of the Banks of the three Presidencies in lieu of the receipts of the Sub-Treasurers of those Presidencies. By the Administrator General's Act (VIII of 1855) it was provided that the proceeds of certain estates in the hands of the Administrator General, should if unclaimed for fifteen years or upwards, be paid to the Sub-Treasurer of the Presidency and carried to the credit of Government; and the Act declared that the receipts of the Sub-Treasurer and Accountant General should be a full indemnity to the Administrator General for such payments. By a recent arrangement come to between the Government and the Bank of Bengal, the Bank of Madras, and the Bank of Bombay, so much of the business of the Government Treasuries as consisted in paying and receiving money had been transferred to the three Presidency Banks. The question had been raised whether the receipt of the Secretary of one of the Banks in respect of payments made under the provisions of the Administrator General's Act above referred to, met the requirements of the law so as to constitute a full indemnity to the Administrator General. The Advocate General of Bombay and the Officiating Advocate General here expressed an opinion that such receipts were not sufficient. Without discussing the correctness of that opinion, it was sufficient to say that the fact of those two Officers deeming such receipts insufficient was quite enough to make it necessary to remove all question on the subject, for it would be quite intolerable to the public that any doubt should be permitted to exist.

The Motion was put and agreed to.

The Hon'ble Mr. Maine applied to His Excellency the President to suspend the Rules for the Conduct of Business, with a view to enable him to move that the Bill be introduced and passed—observing, that he thought it very desirable that the Bill should pass at once, as he did not wish it to be supposed, even for a single day, that the receipts were insufficient.

His Excellency the President declared the Rules to be suspended.

The Hon'ble Mr. Maine then introduced the Bill, and moved that it be taken into consideration.

His Excellency the President said that it was by no means clear to him that there was any force in the objections which had been taken to the sufficiency of these receipts : and he rather questioned there being any necessity for passing the Bill at all.

The Hon'ble Mr. Maine said that the doubt should at all events be set at rest ; and to this His Excellency the President assented.

The Motion was put and agreed to.

The Hon'ble Mr. Maine then moved that the Bill be passed.

The Motion was put and agreed to.

ADMINISTRATION OF JUSTICE AT ADEN.

The Hon'ble Mr. Anderson, in introducing the Bill to provide for the administration of Civil and Criminal Justice at Aden, and in moving that it be referred to a Select Committee, with instructions to report in one month, said that, although Aden had been for about a quarter of a century a British possession, no due provision had yet been made for the proper administration of justice in it. The subject had long been under discussion, and some years ago the matter was brought to the attention of the Government of India by the Government of Bombay, with reference to a sentence passed by the Resident at Aden. The Arab Commander of a vessel sailing under British colors had been sentenced to three years imprisonment for purchasing and receiving on board three slaves, but the Advocate General at Bombay questioned the legality of the sentence, and was of opinion that the Resident had no power to carry it out. Many technical legal difficulties had been found in the attempt to deal with the matter, but these difficulties appeared to him to have been substantially surmounted in the Bill now introduced. Questions had been raised whether the subject ought to be taken up by the local Legislature or by the Imperial Legislature ; or whether it should be taken up partly by the one and partly by the other. It appeared to him that the last was in strictness the most correct course to pursue, but it cer-

tainly was also the most inconvenient one; and the Bombay Government had requested the Government of India to legislate for the whole subject in one measure. The Bill now introduced was originally drawn by the late Mr. Ritchie, but it had been revised and improved by Mr. Maine, who had embodied in it certain suggestions recently made by the Chief Justice of the High Court in Bombay.

Mr. Anderson then briefly explained the provisions of the proposed Act, and concluded by stating that he considered the Bill to be well calculated to attain the object which the Government had in view, although he thought that one or two points of detail required consideration, which he doubted not they would duly receive from the Select Committee to which the Bill would be referred.

The Hon'ble Mr. Harington said that in assenting to the introduction of this Bill he wished it to be understood that he did not bind himself to all the provisions of the Bill. He considered some of these provisions extremely objectionable. He would not occupy the time of the Council by stating his objections in detail at this stage of the Bill, but would bring them forward in Select Committee, where they could be more conveniently considered and discussed in the first instance.

The Motion was put and agreed to.

GAZETTE OF INDIA BILL.

The Hon'ble Mr. Maine, in moving for leave to introduce a Bill to give effect to the publication of certain orders and other matters in the Gazette of India, said that the Bill had its origin in various representations which had been made to Government as to the inconvenience and costliness of the present mode of giving publicity to the orders and notifications of the Government of India. All orders of the Government of India were published in the Calcutta Gazette. The Calcutta Gazette was also the Gazette of the Government of Bengal, and that Government being concerned with the direct administration of the country, had on an average occasion to publish much more matter than ordinarily emanated from the Government of India. For instance, in the last number of the Gazette, while only five pages were filled with the orders of the Government of India, there were about twenty pages which were filled with orders and other matter proceeding from the Bengal Government. The result was that, when the Calcutta Gazette was circulated for the purposes of the Government of India, it was circulated with an immense quantity of matter attached to it which was of no interest beyond Bengal proper. The cost of printing was thus needlessly increased, the expense of transmission was augmented, and after all the Gazette was a less perfect medium of communication than if it were less bulky. The establishment of a new Gazette was rather a matter of Executive concern, but some legislation was needed, because there were various Acts and Regulations in existence in which it was expressly directed that certain orders should be published in the Calcutta Gazette, and it therefore became necessary to provide that, where such publication was not intended to have reference to Bengal alone, it,

should in future be made in the Gazette of India. It was proposed to give the Governor-General in Council power to make rules discriminating between the orders which were to appear in the Gazette of India and those which were to appear in the local Gazette.

His Excellency the PRESIDENT considered it doubtful whether any new Gazette should be established. Each local Government already had its own Gazette.

The Hon'ble MR. HARINGTON said that although it was intended that the Gazette of India should be kept quite separate and distinct from the local Gazettes, a copy would be furnished to all controlling authorities throughout the country. Much repetition and reprinting of matter would thus be avoided.

The Hon'ble SIR CHARLES TREVELYAN said that the question had been fully considered by the Executive Council before it was resolved that a new Gazette should be issued. There would be great convenience in the Government of India having a Gazette of its own ; at present its orders were mixed up with all the matter contained in the Bengal Gazette, and carried all that matter about with them wherever they circulated.

His Excellency the PRESIDENT said that the position of the Calcutta Gazette appeared to him to be very similar to that of the London Gazette, which contained the orders of Government and an immense mass of other matter besides, such as Lists of Bankruptcies and the like. However he had no wish to offer any opposition to the Bill.

The Hon'ble MR. MAINE observed that the suggestion that an Imperial Gazette should be published emanated from gentlemen who were connected with the local Governments and who had been struck by the inconvenience of the present system.

The Hon'ble Sir C. TREVELYAN remarked that there were many conveniences in each Government having a separate organ, if only for the sake of perspicuity, and for the sake of avoiding an unnecessary expenditure of postage. Moreover, he thought that there was another great advantage which would be derived from the Government of India having a Gazette of its own. He thought that the Supreme Government had hitherto always appeared too much to be mixed up with the Government of Bengal, and that it was very desirable to show that it had in fact no more to do with that Government than with any other of the local Governments.

The Motion was put and agreed to.

The Hon'ble MR. MAINE applied to His Excellency the President to suspend the Rules for the Conduct of Business, to enable him to introduce the Bill and move that it be referred to a Select Committee.

His Excellency the President declared the Rules to be suspended.

The Hon'ble Mr. Maine then introduced the Bill, and moved that it be referred to a Select Committee, with instructions to report in three days.

The Motion was put and agreed to.

REGISTRATION OF ASSURANCES BILL.

The Hon'ble Mr. Ellis moved that the amended Bill, to provide for the Registration of Assurances, be referred back to a Select Committee, with instructions to consider the reports received from the local Governments, and make a further report.

The Motion was put and agreed to.

ACT XX OF 1862 CONTINUANCE BILL.

The Hon'ble Mr. Maine, in moving for leave to introduce a Bill to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature of Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court) said that this was merely a continuing Bill corresponding with a Bill recently passed by the Council. When the High Courts were established, great difficulty was experienced in applying certain Sections of the Civil Procedure Code to the Procedure of the High Courts in the exercise of their original jurisdiction. There was also a difficulty in substituting the system of Stamps, in suits instituted under the original jurisdiction of the Court, for the fees previously levied under the practice of the old Supreme Courts. A Bill was therefore introduced last year to suspend temporarily the operation of certain Sections of the Civil Procedure Code, and also certain Sections of the Stamp Act. It was hoped that arrangements would soon be completed, which would render that suspension no longer necessary; and he was glad to be able to say that he had reason to believe that the difficulties which had been felt were fully disposed of by his Honorable friend Mr. Harington, in the revised Civil Procedure Code which he had recently prepared, and which he hoped would be brought before the Council ere long. He proposed that the Act should remain in force until such date as the Governor-General in Council should order. Of course the Governor-General in Council would issue the requisite order as soon as the new Code should come into force.

The Motion was put and agreed to.

The Hon'ble Mr. Maine applied to His Excellency the President to suspend the Rules for the Conduct of Business, to enable him to introduce the Bill and move that it be referred to a Select Committee.

His Excellency the PRESIDENT declared the Rules to be suspended.

The Hon'ble MR. MAINE then introduced the Bill, and moved that it be referred to a Select Committee, with instructions to report in three days.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh—The Hon'ble Messrs. Harington, Ellis, Roberts, and Anderson, and the Mover.

On the Bill to provide for the administration of Civil and Criminal Justice at Aden—The Hon'ble Messrs. Harington, Maine, Ellis, and Roberts, and the Mover.

On the Bill to give effect to the publication of certain orders and other matters in the Gazette of India—The Hon'ble Messrs. Harington, Ellis, Roberts, and Anderson, and the mover.

On the Bill to provide for the Registration of Assurances—The Hon'ble Messrs. Harington, Maine, Roberts, Anderson, and Brown, and the Mover.

On the Bill to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court)—The Hon'ble Messrs. Ellis, and Anderson, and the Mover.

The Council adjourned.

A. G. MACPHERSON,
Offg. Depy. Secy. to Govt. of India, Home Dept.

CALCUTTA;
The 7th December 1863.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

THE Council met at Government House, on Wednesday, the 16th December 1863.

PRESENT :

His Excellency the Governor-General of India, *presiding*.
His Honor the Lieutenant-Governor of Bengal.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K. C. B.
The Hon'ble W. Grey.
The Hon'ble W. S. FitzWilliam.
The Hon'ble R. S. Ellis, C. B.
The Hon'ble A. A. Roberts, C. B.
The Hon'ble H. L. Anderson.
The Hon'ble C. H. Brown.

FOREIGNERS' BILL.

The Hon'ble MR. MAINE, in introducing the Bill to give the Government certain powers with respect to Foreigners, and moving that it be referred to a Select Committee, with instructions to report in three weeks, said that the Bill was one of those which had already been published by the order of the late Governor-General. The Foreigners' Act was originally passed in the year of the Mutinies, but it was a temporary measure terminable in December 1859 : it had, however, been since continued from time to time, and expired only on the 5th of this present month of December. The last of the Acts continuing the Foreigners' Act in operation was in truth passed in order to give the Government of India time to consult the local Governments as to the necessity of renewing the Act. The replies of the local Governments had lately been received. These replies had not been circulated to the Members, chiefly because they were all brief, and all much to the same effect. They all said that, although they very rarely had occasion to put in force the powers vested in them by the Foreigners' Acts, still they considered that they ought not to be wholly deprived of those powers in case any necessity for making use of them should arise. Thus the Government of Bombay said—"It will be observed that the Act appears to "have been brought very little into play in the Bombay Presidency, but when

"a necessity has arisen for enforcing it, it appears to have worked satisfactorily. "His Excellency the Governor in Council would therefore recommend the "continuance of Act XXXIII of 1857 as a permanent enactment." So the Government of Madras reported—"The Inspector General of Police reports "that Act XXXIII of 1857, continued by Act I of 1862, is now practically a "dead letter. The Magistrates do not enforce its provisions, and the Police have "been instructed not to molest persons travelling without a license. The Inspect-"or General considers that the provisions of the Act, although inoperative in "times of peace, are calculated to be useful during periods of popular excitement, "and that the Act should be perpetuated, with the modification that it should be "put in force at any time and in any part of the Presidency by an order "of the local Government." With reference to the proposal to perpetuate Act XXXIII of 1857, he thought it an evil to keep in the Statute Book any Act which was inoperative, especially an Act which was a severe one in its provisions. He therefore did not propose simply to perpetuate the old Act. When the opinions of the local Governments were examined it would be seen that it was in fact only a very few of the provisions of the old Act which it was considered to be necessary to keep in force. Those provisions might be divided into three classes—*Firstly*, those enabling the local Government to order any Foreigner to leave the country; *Secondly*, those establishing a system of granting licenses to Foreigners to reside in the country; and *Thirdly*, those giving the power of searching and examining for the purpose of identification and the like. It was only of the provisions of the first kind that the local Governments were unwilling to be deprived. He therefore proposed that the first four Sections only of the Bill which he now introduced should be in force every where throughout India: the rest of the Bill would only be in force when it was specially required, and had been specially extended. The first four Sections only gave the Government powers which according to the better opinion belonged to the English Crown under the common law. The other portions of the Bill resembled more in their character the special terminable Acts which had been occasionally passed in Great Britain, in times of public peril.

The Motion was put and agreed to.

ALIMENTARY SALT BILL (CENTRAL PROVINCES).

The Hon'ble Mr. Harington introduced the Bill for regulating the importation and manufacture of alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces, and moved that it be referred to a Select Committee, with instructions to report in three weeks. He said that, on his applying for leave to introduce this Bill, certain observations had fallen from His Excellency the President as to the effect which Section II of the Bill might have upon the Presidency of Madras in respect to Salt, which, having already paid duty at Madras, was subsequently sent for sale to the Central

Provinces. He had since taken the subject into consideration and it had occurred to him that in order to meet any objections such as had been mentioned by His Excellency, words might be introduced into the Section, either excluding from its operation Salt which had paid duty prior to its being brought into the Central Provinces, or confining the operation of the Section to Salt imported from Foreign Territories. If the Council allowed the Bill to be referred to a Select Committee, he would propose to the Committee an amendment to the effect which he had mentioned.

The Hon'ble SIR CHARLES TREVELYAN said, that it seemed to him at the last Meeting to have been agreed that it would be sufficient to establish a maximum rate of duty, and that, within that maximum, the scale might be so adjusted as to meet every possible state of circumstances. Thus, when Salt had previously paid highly, a low rate of duty, or no duty at all, might be levied; on Salt from Cambay or elsewhere, where only a low Excise duty was levied, a somewhat higher rate might be imposed; and on any Salt which had previously paid no duty a still higher rate might be levied.

The Hon'ble MR. HARINGTON remarked that the adoption of Sir Charles Trevelyan's proposition would render it necessary to alter the wording of the Section. The nature of the alterations to be introduced had better, he thought, be left for the consideration of the Select Committee in the first instance.

His Excellency the PRESIDENT thought that it might be left to the Select Committee to do what was requisite.

The Hon'ble SIR CHARLES TREVELYAN said, he had inferred from what Mr. Harington had said, that it was his intention to introduce a provision that no second duty should ever in any case be levied. He thought it very undesirable to lay down any such principle.

The Motion was put and agreed to.

POORWAH AND KHUDDEE BILL.

The Hon'ble MR. HARINGTON applied to His Excellency the President to suspend the Rules for the Conduct of Business, to enable him to introduce the Bill to bring the Jagheers of Poorwah and Khuddee, in the district of Banda, under the operation of the general Regulations.

His Excellency the PRESIDENT declared the Rules to be suspended.

The Hon'ble MR. HARINGTON introduced the Bill, and moved that it be referred to a Select Committee with instructions to report in three weeks.

The Motion was put and agreed to.

OUDH CLAIMS COMMISSIONERS' BILL.

The Hon'ble Mr. Maine presented the Report of the Select Committee on the Bill to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh. He read the report, which was in the following terms—" We, the undersigned, the Members of the Select Committee of the Council of the Governor-General of India for the purpose of making Laws and Regulations, to whom the Bill to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh was referred, have the honor to report that we have considered the Bill and recommend certain amendments. We would add the words 'either in person or by Agent duly constituted,' after the word 'respectively' in line 13 of Section IV. In Section V we would add the words 'claimants and' before the word 'witnesses' in line 6; the words 'the reception of documents" after the word 'witnesses' in the same line, and the words 'under the Code of Civil Procedure' after the word 'suit' in line 9. In Section VI we think that the Proviso beginning at line 25 should be omitted. And in Section VIII we recommend the omission of the following words beginning at line 5—viz.—'being a person living within fifty miles of the place at which he shall be required to attend."

The Hon'ble Mr. Maine also moved that the Report be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Maine also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

GAZETTE OF INDIA BILL.

The Hon'ble Mr. Maine also presented the Report of the Select Committee on the Bill to give effect to the publication of certain orders and other matters in the Gazette of India, stating that the Select Committee had no amendments to suggest.

The Hon'ble Mr. Maine moved that the Report be taken into consideration

The Motion was put and agreed to.

The Hon'ble Mr. Maine moved that the Bill be passed.

The Motion was put and agreed to.

ACT XX OF 1862 CONTINUANCE BILL.

The Hon'ble Mr. Maine also presented the Report of the Select Committee on the Bill to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court)—adding, that the Select Committee did not recommend any alterations in the Bill.

The Hon'ble Mr. Maine moved that the Report be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Maine also moved that the Bill be passed.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to give the Government certain powers with respect to Foreigners—The Hon'ble Messrs. Harington, Maine, Ellis, Roberts, and Anderson.

On the Bill for regulating the importation and manufacture of alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces—The Hon'ble Messrs. Harington and Maine, The Hon'ble Sir Charles Trevelyan, and The Hon'ble Mr. Ellis.

On the Bill to bring the Jagheers of Poorwah and Khuddee, in the district of Banda, under the operation of the General Regulations—The Hon'ble Messrs. Harington, Maine, and Roberts.

The Council adjourned.

A. G. MACPHERSON,
Offg. Depy. Secy. to Govt. of India, Home Dept.

Calcutta;
The 16th December 1863.